

## FACT SHEET

## Navigating the Information Blocking Rule when Protecting Reproductive Health Privacy: Q&A

Reproductive health information is often highly sensitive, and its disclosure and misuse can have harmful consequences, such as stigma, harassment, criminalization, and barriers to care. The risks associated with violations of reproductive privacy are heightened for structurally marginalized communities who disproportionately experience oversurveillance and punishment, the threat of which can deter access to reproductive health services.<sup>1</sup> Accordingly, in a nation increasingly hostile to reproductive rights, health care providers, health departments, and others looking to advance health and health equity may seek to protect the confidentiality of reproductive health information that they hold, limiting its disclosure for potentially harmful purposes. This resource aims to support these entities in understanding and navigating considerations related to the Information Blocking Rule—federal requirements governing the availability of certain health data—that may arise in connection with the protection of reproductive health information.

### Q: What is the Information Blocking Rule?

In an effort to improve the availability and use of health information, a 2016 federal law known as the 21<sup>st</sup> Century Cures Act and its implementing regulations established prohibitions on “information blocking.”<sup>2</sup> Entities that must comply with information blocking requirements, referred to as “actors,” include health care providers, certified health IT developers, health information exchanges (HIEs), and health information networks (HINs).<sup>3</sup> Actors who engage in information blocking are subject to fines or other disincentives.<sup>4</sup>

Information blocking involves practices that are likely to interfere with access, use, or disclosure of electronic health information (EHI). For health IT developers, HIEs, and HINs, the 21<sup>st</sup> Century Cures Act defines “information blocking” as a practice that is “likely to interfere with, prevent, or materially discourage access, exchange, or use of [EHI]” when the actor knows or should know that the practice is likely to do so.<sup>5</sup> For health care providers, such a practice would constitute information blocking when the provider knows that the practice is unreasonable and is likely to interfere with, prevent, or materially discourage access, exchange, or use of EHI.<sup>6</sup>

In short, the Information Blocking Rule prohibits certain practices that interfere with use or disclosure of EHI. While the prohibitions on information blocking may seem straightforward, there are numerous exceptions in the rule for activities that seemingly meet the above definition but nevertheless are not considered information blocking. Specifically, practices are not considered information blocking if they are required by law or if they fall under an exception identified by the Secretary of Health and Human Services (HHS).<sup>7</sup> As of April 2026, HHS has identified ten exceptions.

Because it imposes penalties and disincentives for interfering with use or disclosure of EHI, the Information Blocking Rule may raise concerns for health care providers and others seeking to prevent harmful uses and disclosures of reproductive health information who worry that doing so would constitute information blocking. For these actors, understanding whether a practice would entail information blocking or if it would fall under one of the Information Blocking Rule's exceptions (and thus would not be considered information blocking) is of critical importance.

## Q: Does the Information Blocking Rule contain exceptions relevant to the protection of reproductive health information?

Yes. The following four exceptions may be especially relevant to actors seeking to safeguard reproductive health information and to protect the privacy of vulnerable populations that bear the brunt of punitive intrusion into their decision-making. Practices that fall under such exceptions are not considered information blocking and therefore do not violate the Information Blocking Rule. These descriptions provide overviews and are not intended to be comprehensive; for all requirements, see 45 C.F.R. Subpart 171.<sup>8</sup>

### PROTECTING CARE ACCESS EXCEPTION

The Protecting Care Access Exception creates a safe harbor for certain practices that interfere with information sharing but that are undertaken to reduce potential exposure to legal action related to reproductive health care. Specifically, it provides that a practice is not considered information blocking if the actor in good faith believes that it would reduce the risk of someone being exposed to legal action for obtaining, providing, or facilitating reproductive health care.<sup>9</sup> In order for this exception to apply, the practice must not be broader than necessary to reduce the risk.<sup>10</sup>

The practice may aim to reduce risk for a patient who could be exposed to legal action due to EHI indicating they obtained reproductive health care,<sup>11</sup> inquired about reproductive health care, or have a health condition for which reproductive health care is often sought.<sup>12</sup> Or the practice may aim to reduce risk for a health care provider or other person who provided or facilitated lawful reproductive health care<sup>13</sup> who could be exposed to legal action due to EHI indicating they provided or facilitated such care.<sup>14</sup>

For the exception to apply, the practice must be undertaken consistent with a written organizational policy informed by relevant expertise or it must be based on a documented case-by-case determination.<sup>15</sup>

**For example:** A health care provider works in a state that prohibits abortions unless necessary to save the pregnant person's life. The provider performs an emergency abortion on a pregnant patient experiencing a life-threatening complication in accordance with state law. Later, the provider receives a law enforcement request for the patient's EHI, which contains information about the abortion. Because the state has a practice of closely scrutinizing abortions and second-guessing physicians' determinations, the provider has a good faith belief that disclosing the EHI could risk exposing itself to legal action and that withholding the EHI would reduce that risk. The provider refuses to provide law enforcement with the EHI showing that it performed an abortion, in accordance with an appropriate organizational policy. Under the Protecting Care Access Exception, assuming that all of the exception's conditions are met, this interference with disclosure of EHI would not constitute

information blocking. Please note, however, that the provider may be subject to other legal obligations that prohibit or require disclosure of the EHI (such as a legally valid court order compelling disclosure). The analysis in this example only addresses whether the provider's actions would violate the Information Blocking Rule.

In short, actors can safeguard EHI to protect patients and providers from legal action targeting reproductive health care without violating the Information Blocking Rule if they comply with the conditions of this exception. Health care providers and others seeking to protect reproductive health information may, in consultation with their legal counsel, consider developing a compliant organizational policy and protocols to support staff in making and documenting case-by-case determinations.

## PRIVACY EXCEPTION

The Privacy Exception contains numerous sub-exceptions, two of which are particularly relevant to reproductive health privacy.

### ***Sub-exception: Precondition not satisfied***

First, the Privacy Exception provides that a practice is not considered information blocking if state or federal law establishes one or more requirements ("preconditions") for a use or disclosure of EHI and those requirements have not been satisfied.<sup>16</sup> In other words, if a state or federal privacy law prohibits a use or disclosure because certain preconditions have not been met, the Information Blocking Rule does not require that use or disclosure. A patient consent requirement is an example of a precondition that commonly appears in federal and state privacy laws. If a law prohibits a health care provider from disclosing a patient's health information unless the patient has given their consent for the disclosure and the patient has not consented, then a precondition has not been satisfied.

For this sub-exception to apply, the practice must either align with the actor's written organizational policies and procedures or be documented on a case-by-case basis.<sup>17</sup> Some health care providers and other actors may be unsure of how to develop their policies and procedures if they are subject to multiple laws with inconsistent preconditions—for example, if they operate in numerous states with conflicting laws. In that case, an actor can adopt uniform privacy policies and procedures that comply with the law that has the most stringent privacy protections, and doing so would not violate the Information Blocking Rule.<sup>18</sup>

This sub-exception is relevant for health care providers and other actors seeking to protect reproductive health information where a federal law, such as the Health Insurance Portability and Accountability Act (HIPAA), or a state law, such as a reproductive health care shield law,<sup>19</sup> prohibits use or disclosure of that information because a condition, like a patient consent requirement, has not been satisfied.

**For example:** A health care provider works in a state with a reproductive health care shield law prohibiting the provider from disclosing patients' reproductive health information to state law enforcement unless the request is accompanied by an attestation that the information will not be used in an action targeting the patient or provider in connection with legally protected reproductive health care. The provider receives a request for EHI containing reproductive health information from state law enforcement, but there is no accompanying attestation. Because the attestation precondition has not been satisfied and in accordance with appropriate

organizational policies and procedures, the provider does not share the EHI. Under the Privacy Exception, assuming that all the exception's conditions are met, this would not violate the Information Blocking Rule.

If a health care provider or other actor operates in numerous states with varying state law requirements for the protection of reproductive health information, the Information Blocking Rule permits adoption of uniform policies and procedures that align with the state law with the most protective requirements; in this way, actors can apply protections from states with robust reproductive health care shield laws in jurisdictions that lack such safeguards without engaging in information blocking.<sup>20</sup>

### ***Sub-exception: Individual's request not to share EHI***

A health care provider or other actor may also interfere with a use or disclosure of an individual's EHI without violating the Information Blocking Rule if the individual requested that the actor not engage in the use or disclosure.<sup>21</sup> The actor must document the request within a reasonable period of time, in addition to complying with other conditions.<sup>22</sup> Further, the actor may not improperly encourage the individual to request a restriction on use or disclosure.<sup>23</sup>

Accordingly, actors can protect reproductive health information without engaging in information blocking if they do so based on the individual's requested restrictions, in compliance with the conditions of this sub-exception. Health care providers and other actors, with support from legal counsel, may consider developing policies and procedures to inform patients of their rights to request restrictions on the use and disclosure of reproductive health information (without improperly encouraging a restriction).

## **PREVENTING HARM EXCEPTION**

The Preventing Harm Exception provides that certain practices that interfere with use and disclosure of EHI to prevent harm do not constitute information blocking.<sup>24</sup> This exception covers certain practices that limit access to a patient's EHI by the patient's legal representative—for example, their parent—which may be relevant for health care providers and others seeking to protect the privacy of minors' reproductive health information.

The Preventing Harm Exception applies if the actor reasonably believes that the practice will substantially reduce the risk of harm to a patient.<sup>25</sup> When the practice limits a parent's or other legal representative's access to the patient's EHI, the harm must be substantial.<sup>26</sup> This can include substantial physical, emotional, or psychological harm.<sup>27</sup> Additionally, the risk of harm must be determined on an individualized basis by a licensed health care provider exercising their professional judgment.<sup>28</sup>

This exception also applies to certain practices that interfere with legally permissible access by a person other than the patient or their legal representative; however, in that situation, the practice would need to reduce a risk of harm to the life or physical safety of the patient or another person.<sup>29</sup> Harm to life or physical safety is a harder standard to meet than the substantial harm standard that applies when the risk arises from a legal representative's access. Thus, while it may initially appear that the Preventing Harm exception could provide a broad safe harbor for protection of reproductive health information from law enforcement requests or other demands that could result in harm to the patient, in practice, it is most likely to be applicable in the context of a legal representative's access where the harm at issue must only be substantial, rather than harm to life or physical safety. Nonetheless, if disclosure of reproductive health information to a person other than the patient

or their legal representative poses a risk to the patient's or another person's life or physical safety, the Preventing Harm exception may apply.

As with other exceptions, the practice must be implemented in accordance with a written organizational policy informed by appropriate expertise or, in the absence of an applicable policy, a determination based on relevant facts, circumstances, and expertise.<sup>30</sup>

**For example:** A minor patient discusses potential family planning options with a health care provider. Later, the provider receives a request for the minor's EHI referencing the family planning discussion from the minor's parent, who is their legal representative. The minor told the provider that the parent has threatened to kick the minor out of their home if the minor is sexually active. Based on their professional judgment and the information shared by the minor, the provider is reasonably concerned that sharing the EHI with the parent could result in substantial harm to the minor. The provider reasonably believes that withholding the EHI from the parent would substantially reduce the risk of harm to the minor, and the provider withholds the EHI in accordance with an appropriate organizational policy. Under the Preventing Harm Exception, assuming that all of the exception's conditions are met, this would not constitute information blocking.<sup>31</sup>

## INFEASIBILITY EXCEPTION

The Infeasibility Exception creates a safe harbor for an actor's practice of not fulfilling a request for EHI because doing so would be infeasible.<sup>32</sup> Infeasibility may be due to a number of different causes, but the most relevant cause for actors protecting reproductive health privacy is the inability to segment EHI. Specifically, an actor's failure to fulfill a request for use or disclosure of EHI is not considered information blocking if it is due to the actor's inability to unambiguously separate (or "segment") the requested EHI from other EHI that may not be made available under applicable law or that is withheld in accordance with the Privacy Exception, the Preventing Harm Exception, or the Protecting Care Access Exception.<sup>33</sup> The actor must provide the requestor with a written response with the reason(s) for infeasibility within ten business days of receipt of the request.<sup>34</sup>

This exception may be relevant for health care providers and other actors when reproductive health information cannot be unambiguously segmented from other EHI due to technological limitations. Indeed, many health IT systems currently lack the capability to separate sensitive data and to align data segmentation with varying federal, state, and local protections.

**For example:** A primary care provider receives a request from a specialist for a patient's medical record for treatment purposes. The medical record contains reproductive health information as well as other health information. The primary care provider's electronic health record system lacks the technical capability to separate the reproductive health information from the rest of the record. Under applicable state law, the primary care provider cannot share the reproductive health information in this instance; accordingly, the primary care provider does not share the reproductive health information. Due to the infeasibility of unambiguous segmentation, the primary care provider does not provide the other health information in the patient's medical record either. Under the Infeasibility Exception, assuming that all of the exception's conditions are satisfied, this would not constitute information blocking.

## Q: Beyond the exceptions, when else will a practice that interferes with use or disclosure of EHI containing reproductive health information not be considered information blocking?

The Information Blocking Rule defines information blocking as a practice that is likely to interfere with access, exchange, or use of EHI unless the practice (1) falls under one or more exceptions or (2) is required by law. Therefore, in addition to the exceptions, if a law requires a practice, the actor can be certain that the practice does not violate the Information Blocking Rule. In practice, this carve-out functions similarly to the sub-exception for preconditions not satisfied under the Privacy Exception because it exempts practices that interfere with uses or disclosures that are legally impermissible. However, it differs slightly because it could apply in a situation where a law requires a practice interfering with a use or disclosure irrespective of the satisfaction of any preconditions.<sup>35</sup> In such a situation, the use or disclosure could be impermissible but not because a precondition has not been satisfied. This carve-out may be relevant for actors seeking to protect reproductive health privacy if they are subject to a law requiring a practice that interferes with the use or disclosure of reproductive health information.

Furthermore, for a practice to be information blocking, it must satisfy all parts of the information blocking definition. Therefore, if an actor does not act with the required level of knowledge, or if another part of the information blocking definition has not been met, the practice will not be considered information blocking. HHS has emphasized that whether a practice violates the Information Blocking Rule is a fact-specific inquiry that evaluates each of the rule's requirements based on the unique facts and circumstances at hand.<sup>36</sup>

## Q: Are the Information Blocking Rule's exceptions affected by the elimination of the HIPAA Privacy Rule to Support Reproductive Health Care Privacy?

In 2024, HHS promulgated a new rule under HIPAA that created additional protections for reproductive health privacy, but that rule was struck down by a federal court in 2025.<sup>37</sup> The Information Blocking Rule is distinct from HIPAA, and the two rules stem from different grants of authority to HHS. Thus, the elimination of the HIPAA reproductive health privacy rule does not affect the force or validity of the Information Blocking Rule and its exceptions. However, when the HIPAA rule was in effect, the restrictions it created on use and disclosure of protected health information targeting reproductive health care could have served as grounds for withholding EHI under the Privacy Exception's sub-exception for preconditions not satisfied. Following the HIPAA rule's elimination, these specific grounds for withholding information are no longer available under the Information Blocking Rule.

## Q: If a practice interfering with a use or disclosure of EHI containing reproductive health information falls under one or more exceptions, does that mean that the use or disclosure is not legally required?

No. The exceptions provide actors with certainty that practices they undertake to interfere with the use or disclosure of EHI will not violate the Information Blocking Rule if they satisfy the conditions of the exception(s). But actors may have legal obligations to use or disclose EHI stemming from sources other than the Information

Blocking Rule. For example, an actor may have a legal obligation to disclose EHI due to a legally valid court order compelling the disclosure, even if a practice interfering with the disclosure would not violate the Information Blocking Rule because it falls under an exception. In other words, the Information Blocking Rule's exceptions do not override other legal obligations to use or disclose EHI.

In this way, the Information Blocking Rule is similar to other laws with which health care providers may be more familiar, such as HIPAA. HIPAA permits but does not require covered entities to disclose protected health information under various circumstances. But even when HIPAA does not itself require a disclosure, HIPAA covered entities may be otherwise legally required to make the disclosure, such as under a state law mandating disease reporting to a public health authority.

## Q: How can the Information Blocking Rule benefit patients' access to reproductive health care?

The Information Blocking Rule creates penalties and disincentives for actors who engage in information blocking, with the goal of improving the interoperability, use, and availability of EHI, including for patients. The rule was spurred by well-founded concern that certain entities in health care and health IT, driven by business incentives, engage in practices that limit others' access to EHI.<sup>38</sup> For example, such practices could include a health IT developer designing an electronic health record system in a nonstandard way that impedes information sharing with providers using competing systems.<sup>39</sup> Or it could involve charging prohibitively expensive fees to access information electronically.<sup>40</sup>

These practices can frustrate patients' access to and use of their own information and can limit patients' autonomy to choose their providers. Preventing information blocking is thus an important step towards improving patient access and choice, both of which support quality reproductive health care. Research suggests that patient access to their health information is linked to higher levels of patient involvement and empowerment in care, improved communication with and trust in providers, and better adherence to treatment plans, among other positive outcomes.<sup>41</sup> Furthermore, being able to see a reproductive health care provider of one's choosing is particularly crucial in the current environment characterized by heightened sensitivity of reproductive health, scarcity of providers, and other barriers to care.

## CONCLUSION

While the Information Blocking Rule advances valuable objectives—such as improving patient access and autonomy—it may raise concerns for entities seeking to protect reproductive health privacy who worry that doing so would implicate information blocking. Under the second Trump administration, HHS has identified the prevention of information blocking as a priority, dedicating increased resources to enforcement.<sup>42</sup> Confidently navigating information blocking considerations is thus increasingly crucial for health care providers and others committed to safeguarding reproductive health privacy and protecting the health and wellbeing of structurally marginalized communities whose privacy is most at risk.

This document was developed by Emma Kaeser, J.D., Staff Attorney, Network for Public Health Law – Mid-States Region. The Network promotes public health and health equity through non-partisan educational resources and technical assistance. These materials provided are provided solely for educational purposes

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<sup>1</sup> See, e.g., Sarah C. M. Roberts and Cheri Pies, “Complex Calculations: How Drug Use During Pregnancy Becomes a Barrier to Prenatal Care,” 15 *Maternal and Child Health J.* 333, 338 (2011) <https://doi.org/10.1007/s10995-010-0594-7>.

<sup>2</sup> See 21st Century Cures Act, Pub. L. No. 114-255, 130 Stat. 1033 (2016); 45 C.F.R. Part 171.

<sup>3</sup> 42 U.S.C. § 300jj-52(a)(1).

<sup>4</sup> 42 C.F.R. Part 1003, Subpart N; 42 C.F.R. Parts 414, 425, 495; 45 C.F.R. Part 171, Subparts J, K.

<sup>5</sup> 42 U.S.C. § 300jj-52(a)(1).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*; 42 U.S.C. § 300jj-52(a)(3); see 21<sup>st</sup> Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program, 85 Fed. Reg. 25642 (May 1, 2020); Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing, 89 Fed. Reg. 1192 (Jan. 9, 2024); Health Data, Technology, and Interoperability: Protecting Care Access, 89 Fed. Reg. 102512 (Dec. 17, 2024).

<sup>8</sup> See also Office of the National Coordinator for Health Information Technology, Information Blocking Rule Exceptions (2024), [https://healthit.gov/wp-content/uploads/2024/04/IB\\_Exceptions\\_Fact\\_Sheet\\_508.pdf](https://healthit.gov/wp-content/uploads/2024/04/IB_Exceptions_Fact_Sheet_508.pdf); Office of the National Coordinator for Health Information Technology, HTI-3 Final Rule: Protecting Care Access (2024), [https://healthit.gov/wp-content/uploads/2025/06/HTI-3\\_Final\\_Rule\\_Fact\\_Sheet.pdf](https://healthit.gov/wp-content/uploads/2025/06/HTI-3_Final_Rule_Fact_Sheet.pdf).

<sup>9</sup> 45 C.F.R. § 171.206(a)(1). As used in this exception, “legal action” refers to a criminal, civil, or administrative investigation into or action or proceeding against any person for the mere act of seeking, obtaining, providing or facilitating reproductive health care. 45 C.F.R. § 171.206(e).

<sup>10</sup> 45 C.F.R. § 171.206(a)(2).

<sup>11</sup> Under this part of the exception, a practice may interfere with use or disclosure of EHI indicating that the patient obtained reproductive health care to reduce risk for the patient. The regulatory text is ambiguous with respect to whether the reproductive health care that the EHI indicates the patient obtained must have been lawful. See 45 C.F.R. § 171.206(b)(1)(i) (referring to “reproductive health care” without specifying whether such care was provided lawfully). However, several factors suggest that this part of the exception is limited to reproductive health care that was lawful under the circumstances in which it was provided. First, the exception creates a presumption of legality for practices under § 171.206(b)(1)(i), stating, “For purposes of determining whether an actor’s practice meets paragraph (b)(1)(i) or (c) of this section, care provided by someone other than the actor is presumed to have been lawful unless the actor has actual knowledge that the care was not lawful under the circumstances in which such care is provided.” § 171.206(d) (emphasis added). This suggests that, for the practice to satisfy the conditions of § 171.206(b)(1)(i), the reproductive health care must be lawful or presumed lawful. Further, the rulemaking finalizing the exception generally indicates that this part of the exception is limited to care that was lawful under the circumstances in which it was provided. For example, when discussing practices implemented to reduce risk to the patient, the final rule refers to practices interfering with the use or disclosure of EHI indicating that the patient has “obtained reproductive health care that was *lawful under the circumstances in which such care was provided.*” 89 Fed. Reg. 102512, 102551 (emphasis added). The final rule then goes on to define “lawful under the circumstances in which it was provided” in the discussion of practices implemented to reduce risk to the patient. *Id.* Thus, while the regulatory text is ambiguous on this question, these contextual factors support interpreting § 171.206(b)(1)(i) as limited to EHI indicating the patient obtained reproductive health care that was lawful under the circumstances in which it was provided. Health care providers and other actors should consult with their legal counsel when interpreting § 171.206(b)(1)(i).

<sup>12</sup> 45 C.F.R. § 171.206(b)(1).

<sup>13</sup> The final rule defines “lawful under the circumstances in which it was provided” as “when, where, and under relevant circumstances . . . the care was:

- not prohibited by Federal law and lawful under the law of the jurisdiction in which it was provided; or
- protected, required, or authorized by Federal law, including the United States Constitution, in the circumstances under which such health care is provided, regardless of the state in which it is provided.” *Id.*

The rulemaking further notes that “[w]here care is not prohibited by Federal law and is permitted under the law of the jurisdiction in which it is provided, we would consider the care lawful regardless of whether the same care would, under otherwise identical circumstances, also be unlawful in other circumstances (for instance, if provided in another jurisdiction.” *Id.* If the care is provided by someone other than the actor, it is presumed to have been lawful unless the actor has actual knowledge that it was not lawful under the circumstances in which it was provided. 45 C.F.R. § 171.206(d).

<sup>14</sup> 45 C.F.R. § 171.206(c).

<sup>15</sup> 45 C.F.R. § 171.206(a)(3).

<sup>16</sup> 45 C.F.R. § 171.202(b).

<sup>17</sup> *Id.*

<sup>18</sup> 45 C.F.R. § 171.202(b)(3); Office of the National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, Privacy Exception (Sept. 12, 2025), <https://healthit.gov/faq/if-actor-such-health-care-provider-operates-more-one-state-it-consistent-information-blocking/>.

<sup>19</sup> See UCLA Law, Center on Reproductive Health, Law, and Policy, Shield Laws for Reproductive and Gender-Affirming Health Care: A State Law Guide (last visited Feb. 27, 2026), <https://law.ucla.edu/academics/centers/center-reproductive-health-law-and-policy/shield-laws-reproductive-and-gender-affirming-health-care-state-law-guide>.

<sup>20</sup> Office of the National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, Privacy Exception (Sept. 12, 2025), <https://healthit.gov/faq/if-actor-such-health-care-provider-operates-more-one-state-it-consistent-information-blocking/>.

<sup>21</sup> 45 C.F.R. § 171.202(e). When it was originally issued, this sub-exception only applied to an individual’s request not to share EHI *where the sharing was not otherwise required by law*. In 2024, HHS revised the sub-exception to remove this limitation, clarifying that the sub-exception can apply even when sharing the EHI may ultimately be required by law. This change was intended to reassure actors that they could avoid information blocking by honoring individuals’ requested restrictions even when actors are not certain that they can account for all laws that might override the requests. According to HHS, the evolving reproductive health law landscape post-*Dobbs v. Jackson Women’s Health Organization* necessitated this change because it created greater uncertainty about whether certain uses or disclosures are required. HHS gives the example of an actor delaying a disclosure of EHI pursuant to a court order that is being contested because the actor is waiting to see if the court order will in fact compel disclosure contrary to the individual’s requested restriction. In this scenario, even though the actor is not certain about whether the disclosure is required by law, the delay would not constitute information blocking under the revised rule if it complies with the conditions of this sub-exception. 89 Fed. Reg. 102512, 102518-19.

<sup>22</sup> 45 C.F.R. §§ 171.202(e).

<sup>23</sup> 45 C.F.R. § 171.202(e)(1).

<sup>24</sup> 45 C.F.R. § 171.201.

<sup>25</sup> 45 C.F.R. § 171.201(a).

<sup>26</sup> 45 C.F.R. § 171.201(d)(1); See also 85 Fed. Reg. 25642, 25828, Table 3 – Mapping of Circumstances Under § 171.201(d) to Applicable Harm Standards; Office of the National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, Preventing Harm Exception (Sept. 12, 2025), <https://healthit.gov/faq/which-patient-access-cases-does-preventing-harm-exception-recognize-substantial-harm/>.

<sup>27</sup> Office of the National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, Preventing Harm Exception (Sept. 12, 2025), <https://healthit.gov/faq/which-patient-access-cases-does-preventing-harm-exception-recognize-substantial-harm/>; 65 Fed. Reg. 82462, 82556.

<sup>28</sup> 45 C.F.R. § 171.201(c)(1).

<sup>29</sup> 45 C.F.R. § 171.201(d)(4).

<sup>30</sup> 45 C.F.R. § 171.201(f).

<sup>31</sup> Health care providers that treat minors may have concerns that disclosing a minor’s health information to their parent may violate the minor’s confidentiality and undermine trust between the patient and provider. But HHS has stated that the Preventing Harm exception would not apply in situations where a provider interferes with a parent or other legal representative’s access to a minor patient’s EHI in order to protect confidentiality and trust. In order for the Preventing Harm exception to apply, the actor must reasonably believe that the parent or other legal representative’s access would substantially reduce a risk of substantial harm to the patient or another person. Other exceptions may apply in situations where the disclosure would violate confidentiality and trust but would not rise to the substantial harm level, such as the Privacy Exception’s sub-exception for when an individual has requested that their EHI not be shared. Office of the

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National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, Preventing Harm Exception (Sept. 12, 2025), <https://healthit.gov/faq/where-patient-minor-and-avoid-breaching-patients-confidentiality-and-trust-provider-will/>.

<sup>32</sup> 45 C.F.R. § 171.204.

<sup>33</sup> 45 C.F.R. § 171.204(a)(2).

<sup>34</sup> 45 C.F.R. § 171.204(b).

<sup>35</sup> HHS has explained that, though it is similar to the sub-exception for preconditions not satisfied under the Privacy Exception, this carve-out from the information blocking definition is distinguishable because it covers practices that are “required by law” rather than “practices that an actor engages in pursuant to a law, but which are not ‘required by law,’” such as obtaining consent before disclosing information. 85 Fed. Reg. 25642, 25846.

<sup>36</sup> Office of the National Coordinator for Health Information Technology, FAQ Topics: Information Blocking, General (Sept. 12, 2025), <https://healthit.gov/faq/how-would-any-claim-or-report-information-blocking-be-evaluated/>.

<sup>37</sup> See *Purl v. Department of Health & Human Services*, 787 F. Supp. 3d 284 (N.D. Tex. 2025).

<sup>38</sup> Office of the National Coordinator for Health Information Technology, Report to Congress: Report on Health Information Blocking (April 2015), [https://healthit.gov/wp-content/uploads/2018/03/info\\_blocking\\_040915.pdf](https://healthit.gov/wp-content/uploads/2018/03/info_blocking_040915.pdf) at 8.

<sup>39</sup> *Id.* at 13.

<sup>40</sup> *Id.*

<sup>41</sup> See Dalia Alomar, et al., “The Impact of Patient Access to Electronic Health Records on Health Care Engagement: Systematic Review,” 26 J. Med. Internet Rsch. (2024), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11618012/>.

<sup>42</sup> U.S. Department of Health & Human Services, Press Release: HHS Announces Crack Down on Health Data Blocking (Sept. 3, 2025), <https://www.hhs.gov/press-room/hhs-crackdown-health-data-blocking.html>.