

HTI-3 Final Rule: Protecting Care Access

Fact Sheet: Overview of Information Blocking Provisions

December 2024

Information Blocking Enhancements

The Health Data, Technology, and Interoperability: Protecting Care Access (HTI-3) final rule updates information blocking regulations that were proposed in the [Patient Engagement, Information Sharing, and Public Health Interoperability \(HTI-2\) proposed rule](#). In the final rule, we:

- Finalized revisions to two existing information blocking exceptions: the Privacy Exception, § 171.202, and Infeasibility Exception, § 171.204.
- Finalized a new exception, the Protecting Care Access Exception, § 171.206.

Summary

- Privacy Exception § 171.202
- Infeasibility Exception § 171.204
- **New** Protecting Care Access Exception § 171.206

Privacy Exception Revisions

We expanded the application of the “sub-exception” designed to cover actors’ choosing to restrict sharing of an individual’s electronic health information (EHI) at the individual’s request (§ 171.202(e)) by removing a limitation to individual-requested restrictions that was contingent on whether another law required the EHI be accessed, exchanged, or used. The revised sub-exception does **not** override other law compelling disclosure of EHI against the individual’s wishes, but an actor can choose whether to agree to an individual’s requested restrictions with confidence that doing so will not be considered information blocking so long as the actor’s practices in doing so satisfy the requirements of the sub-exception § 171.202(e). This provision was finalized as proposed in the HTI-2 proposed rule.

Infeasibility Exception Revisions

The HTI-3 final rule finalizes revisions to the *segmentation* condition as proposed in the HTI-2 proposed rule. The *segmentation* condition applies where an actor cannot unambiguously segment certain EHI that may be withheld under other exceptions from EHI that could be shared. The revisions retain the prior applicability of the *segmentation* condition (e.g., the Preventing Harm Exception), while expanding the *segmentation* condition to specifically cover all the sub-exceptions under the Privacy Exception and the new Protecting Care Access Exception.

Protecting Care Access Exception

The Protecting Care Access Exception is a new exception that offers actors certainty that they can, if they choose, restrict information sharing in certain circumstances where the restrictions could reduce a risk of exposing persons who seek, obtain, provide, or facilitate reproductive health care that is lawful in the circumstances in which it is furnished to legal action based on the mere fact that such care was sought, obtained, provided, or facilitated. The exception also applies where an actor limits the sharing of a patient’s EHI potentially related to reproductive health care to protect that patient from potential exposure to legal action.



“Good Faith Belief” Threshold

For the exception to apply, an actor must act based on a good faith belief that persons seeking, obtaining, providing, or facilitating reproductive health care are at risk of being potentially exposed to legal action that could arise as a consequence of sharing specific EHI; and practices likely to interfere with such access, exchange, or use of such EHI could reduce that risk.

The HTI-3 final rule finalizes the “good faith belief” standard as stated in the HTI-2 proposed rule, using responses to comments to affirm and emphasize that the “good faith belief” standard is subjective. An actor’s belief does not need to be accurate; it only needs to be held in good faith. To hold a belief in good faith, an actor does not need to conduct tracking, detailed analysis, or extensive research of laws under which the actor does not furnish health care and does not provide health information network (HIN)/health information exchange (HIE) functionality or other health IT items or services to health care providers.



Reproductive Health Care Definition

We finalized in § 171.102 a “reproductive health care” definition that is substantively identical to the “reproductive health care” definition codified in 45 CFR 160.103.