
42 U.S. Code § 300jj-52

Information blocking

(a) Definition

(1) In general

In this section, the term “information blocking” means a practice that—

(A) except as required by law or specified by the Secretary pursuant to rulemaking under paragraph (3), is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information; and

(B)

(i) if conducted by a health information technology developer, exchange, or network, such developer, exchange, or network knows, or should know, that such practice is likely to interfere with, prevent, or materially discourage the access, exchange, or use of electronic health information; or

(ii) if conducted by a health care provider, such provider knows that such practice is unreasonable and is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information.

(2) Practices described

The information blocking practices described in paragraph (1) may include—

(A) practices that restrict authorized access, exchange, or use under applicable State or Federal law of such information for treatment and other permitted purposes under such applicable law, including transitions between certified health information technologies;

(B) implementing health information technology in nonstandard ways that are likely to substantially increase the complexity or burden of accessing, exchanging, or using electronic health information; and

(C) implementing health information technology in ways that are likely to—

(i) restrict the access, exchange, or use of electronic health information with respect to exporting complete information sets or in transitioning between health information technology systems; or

(ii) lead to fraud, waste, or abuse, or impede innovations and advancements in health information access, exchange, and use, including care delivery enabled by health information technology.

(3) Rulemaking

The Secretary, through rulemaking, shall identify reasonable and necessary activities that do not constitute information blocking for purposes of paragraph (1).

(4) No enforcement before exception identified

The term “information blocking” does not include any practice or conduct occurring prior to the date that is 30 days after December 13, 2016.

(5) Consultation

The Secretary may consult with the Federal Trade Commission in promulgating regulations under this subsection, to the extent that such regulations define practices that are necessary to promote competition and consumer welfare.

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