

# Information Blocking Definition Enhancements

## Information Blocking Enhancements

Since the passage of the 21st Century Cures Act (Cures Act), the health IT and health care industry has made significant strides towards data interoperability throughout health care. The Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule builds on this foundation through new proposals that enable better and more equitable patient care through systemic improvements in the access, exchange, and use of data. If finalized, the information blocking provisions in this proposed rule would enhance certainty for regulated actors and continue to promote sharing of electronic health information (EHI) for better health and care while protecting individuals' privacy rights and respecting their privacy preferences.

## Defined Terms

The proposed rule would enhance clarity around two of the terms already defined in the [definitions](#) section (§ 171.102) of the information blocking regulations.

- **“Health care provider”** — ONC proposes to update the text so it would be explicitly clear what laboratories and pharmacists are included in this definition for purposes of the information blocking regulations. The proposed revision would not change who meets this definition.
- **“Interfere with” or “interference”** — ONC proposes to add a section (§ 171.104) to the information blocking regulations that would codify certain practices (acts and omissions) that constitute interference for purposes of the information blocking definition. The proposed section is not an exhaustive catalog. Any practice, whether described in the proposed § 171.104 or not, that prevents, materially discourages, or otherwise inhibits access, exchange, or use of EHI would meet the definition of “interfere with” or “interference” in § 171.102. The proposal describes certain practices of the following general kinds:
  1. Actions taken by an actor to impose delays on other persons' access, exchange, or use of EHI;
  2. Non-standard implementation of health IT and other acts to limit interoperability of EHI or the manner in which EHI is accessed, exchanged, or used by other persons;
  3. Improper inducements or discriminatory contract provisions; and
  4. Omissions (failures to act) when action is necessary to enable or facilitate appropriate information sharing, such as where access, exchange, or use of an individual's EHI is required by law or where it is permitted by law and not subject to restrictions requested by the individual (to which an actor has agreed).

The proposed rule would also enhance clarity under the information blocking regulations by codifying (in § 171.102) definitions for the terms “business day” or “business days” and “health information technology” or “health IT.”



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