



Information Sharing Workbook

Everything you need to create an Information
Sharing Policy for your pediatric practice

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PART ONE

Identify current methods and procedures for sharing information



Identify current methods and procedures for sharing information

Before revising current policies or creating new ones, you need to understand how your current technology does or does not enable you to share, separate, and segregate information, and how to prevent sensitive data from being shared. State law and federal law differ from each other in a few ways, but the general standard is that if a state law is more protective of the patient, then it takes precedence over HIPAA. Conversely, if a state law is less stringent than HIPAA, then HIPAA laws are used.

Charging Fees for PHI



The U.S. Department of Health & Human Services (HHS) outlines the conditions under which fees may be charged to patients who request their information. If a fee is necessary, it must only cover labor, supplies, and postage. If the patient requests delivery via EHR technology certified for making PHI accessible, no fee should be charged.

See: [Fees That Can Be Charged to Individuals for Copies of their PHI \(HHS\)](#) ³



List your practice's current methods of providing information to patients or caregivers, when requested, and indicate if there is a fee for each.

Electronic Methods *Example: Encrypted email*

Non-electronic Methods *Example: Paper printouts*



Do your patients have access to their information via a patient portal?

YES: What settings are currently in place to prevent the sharing of sensitive information?

What information is sent automatically (passive sharing) and what information needs to be manually sent (active sharing)?

NO: What is your practice's plan for providing patients with self-service or on-demand access to their medical information?



Is the practice staff trained on using the privacy, visibility, and security settings (as applicable) in your EHR? If yes, check all that apply.

- Privacy Settings
- Visibility Settings
- Security Settings



What information does your practice require to be included in records requests (such as requester name, legal authority, or format of delivery)?



If your practice charges a fee for providing records or information, what is that fee and what does it include? (Note: A statement of a fee needs to be included in your policy and patients or their representatives need to be made aware of the fee at the time of the request.)

PART TWO

Review the Information Blocking Exceptions



Review the Information Blocking Exceptions

The ONC has identified 8 exceptions that are not considered Information Blocking. Below is a description and example of each. Full details including the objectives and key conditions of each exception can be found at [ONC Cures Act Final Rule: Information Blocking Exceptions](#)⁴.

Review the exceptions and decide if any of them apply to your practice. Your practice's Information Sharing Policy should also make sure that exceptions are applied without discrimination. Any exceptions preventing information from being shared with a patient should be noted and explained in their chart.

Note: The term "actor" is defined as a health care provider, a Health Information Network (HIN), a Health Information Exchange (HIE), or a Health IT Developer of Certified Health IT.



Preventing Harm Exception

It will not be information blocking for an actor to engage in practices that are reasonable and necessary to prevent harm to a patient or another person, provided certain conditions are met.



Appropriate use of this exception

A teen who was assigned female sex at birth tells his provider that he identifies as male. He's afraid of being kicked out of his home if his parents find out. In his state, gender identity is not considered in the dataset governed by the state's adolescent privacy rules. The provider can keep the teen's gender identity private from any requests for information from his parents.



Inappropriate use of this exception

A father asks to have his child's records sent to the portal. The records include notes from the hospital where the child was born and other specialists. The practice says they cannot guarantee the accuracy of the records from other places and will only provide records they created. This is Information Blocking. The feeling that information "might not be accurate" is not the same as knowing they are wrong.



Are there situations where the **Preventing Harm Exception** would apply in your practice? Detail situations where it would be appropriate to claim this exception.

A Note about Adolescent Confidentiality



Adolescent confidentiality is an especially important part of this discussion for pediatricians, particularly when there may be a conflict between what the adolescent wants to share and what their caregiver or parent wants to see.

When considering the Preventing Harm Exception, a judgment call must be made by the provider when they have a reasonable belief that withholding specific PHI would “substantially reduce” the risk of harm to patients or other individuals.

Privacy Exception

It will not be information blocking if an actor does not fulfill a request to access, exchange, or use EHI in order to protect an individual’s privacy, provided certain conditions are met.

There are four sub-exceptions that fall under the Privacy Exception. The one most relevant to the pediatric community is the “pre-condition not satisfied” exception, which applies if someone requests a patient’s PHI but federal or state privacy laws, like HIPAA, take precedence.



Appropriate use of this exception

A patient requests all her medical records be sent electronically to an app. This patient has a large number of substance use-related health records that fall under [42 CFR §§ 2 \(“Part 2”\)](#)⁵. “Part 2” requires a specific release to disclose these records. Because the patient has not filled out the release form, you may cite the Privacy Exception for that part of the record until the patient executes the release. Other records not covered by Part 2, like immunizations, lab results, medications, and demographic data should be released.



Inappropriate use of this exception

A father requests that all of his daughter’s records be released to him electronically. The daughter takes oral contraceptives and asked the provider to keep this prescription confidential from her parents. Depending on the state’s privacy laws, reproductive healthcare decisions like this may not be kept confidential from parents. If that is the case, restricting these records from the parent is considered Information Blocking, assuming no other exception applies.



Are there situations in your practice where the **Privacy Exception** would apply? Detail situations where it would be appropriate or inappropriate to claim this exception.



Are there any exceptions that apply to your practice from a HIPAA-compliance perspective?



Are there any state or local laws that may apply to your practice as exceptions? Example: Adolescent confidentiality related to seeking care for sexual activity or prescription contraceptives.

A Note about Adolescent Confidentiality



When thinking of the Privacy Exception, the “pre-condition not satisfied” exception may apply in situations where someone requests a patient’s PHI, but other federal or state privacy laws, like HIPAA, take precedence. Each state has its own varying laws, with many states allowing adolescents to consent for all or portions of their health care. This is important because when adolescents are allowed to consent under their state’s law, the HIPAA Privacy Rule considers them to be individuals, and their privacy is protected.

Security Exception

It will not be information blocking for an actor to interfere with the access, exchange, or use of EHI in order to protect the security of EHI, provided certain conditions are met.



Appropriate use of this exception

Someone calls the office from an unlisted number and asks for login credentials for a specific patient's portal account. The office staff declines to give out login credentials over the phone, citing a Security Exception and a violation of their internal security policy.



Inappropriate use of this exception

A parent asks a practice to send their child's data to the practice portal's API so it can be downloaded into a health app. The practice is concerned that the app doesn't properly protect EHI, so they refuse to send the data to the portal, citing the Security Exception. This is information blocking. The practice cannot be responsible for what a family does with its information or how it is used with another app.



Are there situations in your practice where the **Security Exception** would apply? Detail situations where it would be appropriate or inappropriate to claim this exception.

Infeasibility Exception

It will not be information blocking if an actor does not fulfill a request to access, exchange, or use EHI due to the infeasibility of the request, provided certain conditions are met.

One of three conditions must be satisfied to cite this exception: "uncontrollable events", "segmentation", and "under the circumstances."



Appropriate use of this exception

A natural disaster caused a practice to lose its internet connection to its EHR. This made it impossible for the practice to create or release records. A family asks for the records of their child during the outage, but the practice decides it's not feasible. They can cite this exception in writing, citing the uncontrollable event condition, and make arrangements to provide the information when the connection is restored, within 10 business days.



Inappropriate use of this exception

A pandemic caused one location of a multi-location practice to close. When a family who was seen at that location calls to request a copy of their child's records, they are told that they can't have them since that location is no longer open. This is information blocking. The practice must take adequate steps to ensure the records from the closed location are accessible.



Are there situations in your practice where the **Infeasibility Exception** would apply? Detail situations where it would be appropriate or inappropriate to claim this exception.

Health IT Performance Exception

It will not be information blocking for an actor to take reasonable and necessary measures to make health IT temporarily unavailable, provided certain conditions are met.



Appropriate use of this exception

A practice's portal is scheduled to be offline from noon on Saturday to noon on Sunday for necessary upgrades to the software. The practice may apply the Health IT Performance Exception during this timeframe while upgrades are made to the software. This is not information blocking.



Inappropriate use of this exception

A practice hosts their EHR on-premise, which requires regular updates that take the system offline. The team runs these updates once a month on Friday mornings. During one of the updates, the front desk receives a call requesting a copy of patient records. The staff member states they are unable to fulfill this request but gives no indication of when the records will be available.



Are there situations in your practice where the **Health IT Performance Exception** would apply? Detail situations where it would be appropriate or inappropriate to claim this exception.

Content and Manner Exception

It will not be information blocking for an actor to limit the content of its response to a request to access, exchange, or use EHI or the manner in which it fulfills a request to access, exchange, or use EHI, provided certain conditions are met.

This exception is further broken into 2 conditions:

The Content Condition states that a practice must respond to a request to access, exchange, or use EHI with, at a minimum, all EHI available in their records (as of October 6, 2022). *This was updated from the original implementation of the Cures Act where the ONC limited the scope of EHI to the United States Core Data for Interoperability, version 1 (USCDIv1).*

The Manner Condition states that a practice must offer to fulfill a request for EHI in the manner requested unless they are **technically** unable to do so. In that case, they should offer an alternative method and attempt to reach terms with the requesting party.



Appropriate use of this exception

A mother calls and requests that her daughter's health records are provided to an API endpoint. The practice lets the mother know that they do not support the API specification being requested but can provide an alternative. The parent insists on the API specification and says, "it's that or it's nothing." The practice may invoke the Manner Condition of the Content and Manner Exception for this request.



Inappropriate use of this exception

A mother calls and requests that her son's health records are provided online through a patient portal. The front desk staff member states that the practice doesn't have a portal because it's too expensive. The practice cannot invoke this exception because the practice did not work with the requestor to provide a reasonable alternative.



Are there situations in your practice where the Content and Manner Exception would apply?
Detail situations where it would be appropriate or inappropriate to claim this exception.

Fees Exception

It will not be information blocking for an actor to charge fees, including fees that result in a reasonable profit margin, for accessing, exchanging, or using EHI, provided certain conditions are met.



Appropriate use of this exception

A father requests a paper copy of his son's immunization record to include with a handwritten sports form. The practice points out that the requested information is available for free on the portal. The parent still asks for a paper copy. The practice can charge a reasonable fee for copying, printing, and mailing the immunization record to the father.



Inappropriate use of this exception

A practice implements a new portal and wants to recoup its costs by charging all non-Medicaid patients a one-time \$10 fee per patient to cover the labor of getting their patients signed up for the portal. This is not an appropriate use of the Fees Exception because it is an explicit violation of the rule forbidding charging for EHI access.



Are there situations in your practice where the **Fees Exception** would apply? Detail situations where it would be appropriate or inappropriate to claim this exception.

Licensing Exception

It will not be information blocking for an actor to license interoperability elements for EHI to be accessed, exchanged, or used, provided certain conditions are met.

As this exception is specific to selling some portion of intellectual property, it does not apply to healthcare practices other than in very rare circumstances. This exception would apply more to EHR vendors or other Health IT developers when they license their technology to other vendors for interoperability purposes.

PART THREE

Determine methods your practice will use to share information



Determine methods your practice will use to share information

Non-electronic Methods

Printing records for patients, parents, and caregivers is common. To protect this information, it's important to take security precautions, such as sealing the information and ensuring that it's only being given to individuals with permission to view it.

Electronic Methods

Look at the data in your EHR that can be sent electronically, making sure to keep any sensitive information secure. Be ready to share information electronically if asked. You can do this in two ways: passive and active sharing.

Passive sharing refers to the sharing of information that occurs automatically based on privacy settings.

Active sharing refers to the sharing of information initiated by a direct request from a patient or caregiver.

Patient Portal

Giving patients or caregivers access to information through a patient portal is the most direct way to share information.



Does your current EHR vendor support the sending of all data elements in a patient's chart to the patient portal?

Encrypted Email or Secure Messaging

EHI must be shared securely, which can be done using a HIPAA-compliant email service or secure Direct Messaging. Regular email providers (Gmail, Yahoo Mail, etc.) are not HIPAA-compliant, so encryption must be in place if they are used to share information through those service providers.

Custom API

Consult with your practice's technology vendor to determine if API access is available as a method of electronic information sharing.



How will your practice address any exceptions or gaps in your information-sharing capabilities?

PART FOUR

Determine methods for receiving and responding to requests



Determine methods for receiving and responding to requests

In your Information Sharing Policy, include how your practice will handle requests for a patient's information.



Complete the following grid to outline how you'll satisfy each component related to handling requests.

Acceptable request methods

Time to respond or produce information

What to include with the requested information

Response if the request can't be satisfied

PART FIVE




Plan for ongoing compliance



Plan for ongoing compliance

After transferring your work to a draft policy, **finalize your Information Blocking Practice Policy and review it with the providers and your entire practice team.** We've included a [Sample Information Sharing Policy for Pediatric Practices](#)⁶ for your reference.

Then, consider taking the following measures to assure your practice team is committed to making information sharing a continuous improvement project for your practice.

-  Regularly review your project plan to ensure there are no additional gaps. If there are, assign ownership and deliverables with dates to close them.
-  Review your practice's policies and procedures for releasing information to patients/caregivers with your staff on an annual basis.
-  Hold a "mock" drill for an information-blocking complaint so your staff is clear about how to handle complaints.

Stay Informed

Join a community conversation about the 21st Century Cures Act with groups like the AAP's [Section on Administration and Practice Management](#) (SOAPM) and the [Council on Clinical Information Technology](#) (COCIT).

Commit to understanding the enforcement regulations/penalties from the Office of the Inspector General. *As of January 2023, they are not finalized, but you can follow updates on the [OIG website](#).*

Citations

¹<https://www.healthit.gov/topic/information-blocking>

²<https://www.healthit.gov/topic/information-blocking/understanding-electronic-health-information-ehi>

³<https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html#newlyreleasedfaqs>

⁴<https://www.healthit.gov/sites/default/files/page2/2020-03/InformationBlockingExceptions.pdf>

⁵<https://www.samhsa.gov/sites/default/files/faqs-applying-confidentiality-regulations-to-hie.pdf>

⁶<https://www.officepracticum.com/wp-content/uploads/2023/02/Sample-Information-Sharing-Policy-for-Pediatric-Practices.pdf>

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Office Practicum (OP) has always been a champion for pediatricians and the children, families and caregivers they serve. Committed to reducing the complexity of running a pediatric practice, OP's first of its kind certified EHR and practice management platform is designed to support the integrated physical, emotional and mental healthcare needs of pediatric patients at all stages of their growth. OP's pediatric EHR, practice management and revenue cycle management services are offered alongside telehealth, 24/7 answering services, and website design and SEO services. Together, they provide a full suite of solutions that pediatricians need to support their practice. Today, Office Practicum supports 6,500 pediatricians serving 15 million kids across 48 states. For more information, visit us at www.officepracticum.com. As an EHR vendor, we are committed to updating all of our policies and procedures to ensure compliance with the 21st Century Cures Act.