

## Exceptions to the Information-Blocking Rule

### **Preventing Harm**

The “preventing harm” exception has been clarified to indicate define “harm” consistent with provisions of the HIPAA Privacy Rule.

A patient’s treating physician may restrict access, use or exchange of the patient’s electronic health information when

- The physician reasonably believes that restricting access will reduce risk of harm to a patient’s life or physical safety, or of “substantial harm”
- The determination of risk is made on a case-by-case basis for the individual patient and specific test

*Note:* “**Blanket**” delays for routine tests to allow the physician to review results before the patient sees them are *not* acceptable under the preventing harm exception.

### **Protecting Privacy**

As amended, the “protecting privacy” exception distinguishes release of information under the Information Blocking Rule from liability under state law that mandates disclosure. This exception does not override other law that would compel release of the patient’s information

It will not be considered information blocking when a physician restricts access to information at a patient’s request to protect the individual’s privacy when

- The request doesn’t meet one or more preconditions for access set out in state or federal law
- The physician’s practice is tailored to the precondition that is not satisfied
- The patient has freely made the request that access be restricted
- The physician documents the rationale for withholding access

### **Protecting Care Access**

The “protecting care access” exception introduces new provisions to the Information-Blocking Rule.

A physician may withhold electronic health information when

- The physician believes in good faith that access, use, or exchange of specific electronic health information will expose the patient or licensed health care professionals to legal action
- The restriction on access is no broader than necessary to reduce the risk
- The restriction is consistent with organizational policy or conditions for case-by-case determination set out in the exception

*Note:* In June 2025 the U.S. District Court for the Northern District of Texas issued *Purl v. Department of Health and Human Services (HHS)* vacating the HIPAA Privacy Rule for Reproductive Health Care on which the “protecting care access” exemption is predicated [<https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health/final-rule-fact-sheet/index.html>].

*Further information about the Information-Blocking Rule is available from the Office of the Assistant Secretary for Technology Policy ( <https://www.healthit.gov/topic/information-blocking> )*