

# Interoperability: Just Another Fish Tale? (Industry Panel)

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# 21<sup>st</sup> Century Cures Act

## Interoperability:

- **Enables the secure exchange** of electronic health information with, and use of electronic health information from, other health information technology **without special effort** on the part of the user;
- Allows for complete access, exchange and use of **all** electronically accessible health information for authorized use under applicable State and Federal law; and
- **Does not constitute information blocking** as defined in section 3022(a).

# 21<sup>st</sup> Century Cures Act

Information Blocking: a practice that

- A practice that:
  - 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
  - (i) if conducted by a health information technology developer, exchange, or network or 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.

# 21<sup>st</sup> Century Cures Act

Information blocking practices in paragraph 1 may include:

- **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;
- 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
- Implementing health information technology in ways that are likely to:
  - **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
  - **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

# Merit-Based Incentive Payment System (MIPS)

- A MIPS eligible clinician must attest that they **did not knowingly and willfully take action** (such as to disable functionality) **to limit or restrict the compatibility or interoperability** of CEHRT.
- A MIPS eligible clinician must attest that they implemented technologies, standards, policies, practices, and agreements **reasonably calculated** to ensure, to the greatest extent practicable and permitted by law, that the CEHRT was, at all relevant times, connected in accordance with applicable law, compliant with all standards applicable to the exchange of information, implemented in a manner that allowed for timely access by patients to electronic health information, and implemented **in a manner that allowed for timely, secure, and trusted bi-directional exchange of structured electronic health information** with other providers.
- A MIPS eligible clinician must attest that they **responded in good faith and in a timely manner to requests to retrieve or exchange electronic health information**, including from patients, health care providers (as defined by 42 U.S.C. 300jj(3)), and other persons, regardless of the requestor's affiliation or technology vendor.

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