

# **A Public Testimonial submitted to CT Health Information Technology Advisory Council**

**By Supriyo B. Chatterjee MSc MBA MA (Econ)<sup>1</sup>  
April 15, 2021**

I am in the healthcare policy and information technology (HIT) sectors for economic development in Connecticut. I work with small startup businesses, major corporations, hospitals, non-profits, and academic institutions (UConn & Yale Universities). I was in the Practice Transformation Task Force (PTTF) group of the State Innovation Model (SIM) program and currently serve in the Consumer Advisory Council of the Office of Health Strategy. Since 2015, I am a Connecticut Health Foundation Healthcare Leadership Fellow. The views expressed in this testimonial are my own.

There are two Federal rulings underway to give patients an unfettered access to their healthcare data: the 21st Century Cures Act and the Interoperability and Patient Access final rule (CMS-9115-F).<sup>2</sup> Applied in combination, these can provide unencumbered provisions to enable an HIT ecosystem through the use of application programming interfaces (APIs) and other interoperability tools. This can allow patients access to their records in a convenient manner through smartphone apps and other electronic methods. In public comments submitted to HITAC meetings on **Sept 19, 2019 and March 19, 2020**, I had briefly described such arrangements and the benefits of addressing it imperatively.<sup>3,4</sup>

Starting April 5<sup>th</sup> 2021, the following health care entities will have to comply with the 21st Century Cures Act (Cures Act): 1) health care providers, 2) health IT developers of certified health IT, and 3) health information networks/health information exchanges.<sup>5</sup> This ruling has

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<sup>2</sup> The key to interoperability: safe, secure access to patient health data - Medical Economics 4/5/2021  
<https://www.medicaleconomics.com/view/the-key-to-interoperability-safe-secure-access-to-patient-health-data>

<sup>3</sup> Public Comment submitted to CT Health Information Technology Advisory Council - Sept 19, 2019  
OHS\_HIT\_Advisory\_Council\_Public\_Comment\_20190919 [PDF file]  
<https://portal.ct.gov/OHS/HIT-Work-Groups/Health-IT-Advisory-Council/Meeting-Materials/September-19-2019>

<sup>4</sup> A Public Comment submitted to CT Health Information Technology Advisory Council - March 19, 2020  
SIM HITO March 19 2020 - Public Comment V2 [PDF file]  
<https://portal.ct.gov/OHS/HIT-Work-Groups/Health-IT-Advisory-Council/Meeting-Materials/March-19-2020>

<sup>5</sup> A New Day for Interoperability – The Information Blocking Regulations Start Now - HHS ONC HealthIT Gov 4/5/2021 (also attached). <https://www.healthit.gov/buzz-blog/information-blocking/a-new-day-for-interoperability-the-information-blocking-regulations-start-now>

officially taken effect and defines ‘information blocking’ and establishes penalties for those who interfere with the access, exchange, or use of electronic health information.<sup>6</sup>

In my public comments submitted on **March 19, 2020 and March 18, 2021**,<sup>7,8</sup> I had mentioned the Interoperability and Patient Access final rule (CMS-9115-F). This ruling has several technical development items that will need to be addressed. Due to the COVID-19 pandemic, HHS CMS has announced a few additional months for compliance and “*will not enforce these new requirements until July 1, 2021.*”<sup>9</sup> It is not known what the progress is towards this final rule (CMS-9115-F) and whether the July 1, 2021 deadline will be achieved and before the CMS funding for the HIE development ends in Sept 2021.

I bring the above to the HITAC Council’s notice as the progress towards compliance of the rulings are not known. I do have a FOIA request<sup>10</sup> pending since March 22, 2021. These requested documents pertaining to project management and technical descriptions can provide the insights on the progress. However, I thought examining the above rulings as agenda items in HITAC meetings would be more expedient.

Thank you,  
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April 15, 2021

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<sup>6</sup> Information blocking rules take effect - Medical Economics 4/12/2021

<https://www.medicaleconomics.com/view/information-blocking-rules-take-effect>

<sup>7</sup> 4 above.

<sup>8</sup> Public Comment submitted to CT Health Information Technology Advisory Council - March 18, 2021

SBC HITO March 18 2021 - Public Comment APP [PDF file]

<https://portal.ct.gov/OHS/HIT-Work-Groups/Health-IT-Advisory-Council/Meeting-Materials/March-18-2021>

<sup>9</sup> CMS Interoperability and Patient Access Final Rule | HHS CMS 2/26/2021

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Interoperability/index>

<sup>10</sup> OHS - Freedom of Information Request #2021014 Submitted 3/22/2021

<https://ohsfoi.ct.gov/>

Health IT Buzz / Information Blocking / A New Day for Interoperability – The Information Blocking Regulations Start Now

Information Blocking

## A New Day for Interoperability – The Information Blocking Regulations Start Now

Micky Tripathi and Steven Posnack | April 5, 2021



Enacted by Congress over four years ago through Section 4004 of the 21<sup>st</sup> Century Cures Act (Cures Act) and implemented through a final rule released over one year ago, the time has come for the benefits of the Cures Act's information blocking provision to swing into full gear.

Starting today, April 5<sup>th</sup>, 2021, the following participants in health care will need to follow the law: 1) health care providers, 2) health IT developers of certified health IT, and 3) health information networks/health information exchanges. That said, all health care stakeholders will benefit, including many of these types of participants in the form of more readily available EHI when and where it is needed most. Through the Cures Act, Congress defined "information blocking" and established penalties for those who engage in practices that interfere with the access, exchange, or use of "electronic health information" (EHI). The law excludes practices required by applicable law(s) or if they meet an "exception" established by the HHS Secretary.

For the next 18 months (through October 5<sup>th</sup>, 2022) a smaller subset of EHI is in scope. Specifically, the EHI that cannot be "blocked" is limited to the data elements represented in the United States Core Data for Interoperability (**USCDI Version 1**). This initial 18-month period and limited scope gives the regulated community time to grow more experienced with the information blocking regulation, including when and how to meet an "exception," before the full scope of the regulation's EHI definition comes into effect. Of course, those who are able to share more EHI than is represented by the USCDI Version 1 need not wait to begin doing so. Similarly, as a way to prepare for October 2022, we strongly encourage the regulated community to make *all* EHI available as if the scope of EHI were not currently limited.

ONC will continue to release education materials and communicate with stakeholders about the information blocking regulations. We remain closely partnered with the HHS Office of Inspector General with respect to information blocking investigations and civil monetary penalties (for which a final rule is still pending) as well as HHS broadly when it comes to disincentives for health care providers.

It's important to keep in mind that the submission of an information blocking complaint informs enforcement efforts. As a result, your input matters. Submitting a complaint is easy and starts with going to HealthIT.gov's feedback and inquiry portal and clicking on "**Report Information Blocking**."

For updates on information blocking, please sign up for ONC's weekly emails and continue to visit HealthIT.gov for educational resources, including answers to **frequently asked questions**.



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