

Policy Title:	21st Century Cures Act –Information Blocking		
Location:	UHS Corporate	Department:	Corporate Compliance
Policy Number:	Compliance Policy 19.0	Revision Number:	Revision Number
Original Effective Date:	December 10, 2020	Review Date:	Review Date
Owner:	Mia Meloni	Current Effective Date:	December 10, 2020

I. Scope:

All subsidiaries of Universal Health Services, Inc. including all operating locations in the Acute Division, the Behavioral Health Division, Independence Physician Management, LLC (“IPM”), and all personnel of UHS of Delaware, Inc. that support those subsidiary operations.

II. Purpose:

To ensure compliance with the requirements of the 21st Century Cures Act (the “Cures Act”) which is intended to advance interoperability and to require the facilitation of access, exchange or use of electronic health information (“EHI”).

III. Policy:

Consistent with the intent of the Cures Act, the company shall foster innovation in health care to deliver better information, more conveniently, to patients and their providers. It shall also promote transparency through its modern technology consistent with the underlying goal of the Cures Act, which intends to promote patient access to their medical records through electronic applications at no additional cost. Consistent with the company’s efforts to advance interoperability it shall ensure facilitation of access, exchange or use of EHI consistent with the tenets of Information Blocking set forth in the Cures Act.

This policy shall apply to all subsidiaries of Universal Health Services, Inc. that maintain an electronic designated data set as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

A. Information Blocking

The company, consistent with the Cures Act, prohibits information blocking which is defined as the interference with access, exchange or use of electronic health information (“EHI”). Practices that could constitute impermissible information blocking have been identified to include:

1. 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 (health IT);
2. Implementing health IT in nonstandard ways that are likely to substantially increase the complexity or burden of accessing, exchanging, or using EHI;
3. Implementing health IT in ways that are likely to:
 - a. Restrict the access, exchange, or use of EHI with respect to exporting complete information sets or in transitioning between health IT systems; or
 - b. Lead to fraud, waste, or abuse, or impede innovations and advancements in health information access, exchange, and use, including care delivery enabled by health IT.

4. **Reasonable and Necessary Activities**

Section 4004 of the Cures Act authorized the Secretary of Health and Human Services (“HHS”) to identify categories of reasonable and necessary activities which are deemed to constitute permissible activities of information blocking, if certain conditions are met.

Eight categories of reasonable and necessary practices of health care providers, health IT developers, health information exchanges (HIEs) or networks (HINs)) have been identified as action that does not constitute information blocking, provided certain conditions are met. The conditions are referred to as exceptions under the Cures Act. Practices that meet the criteria of the exceptions are guaranteed protection from civil monetary penalties or appropriate disincentives. Practices that do not meet the conditions of an exception defined by the Cures Act and as set forth in this policy must be reviewed by UHS Compliance on a case-by-case basis to determine whether information blocking has occurred. A practice that does not meet the conditions of an exception may not automatically constitute information blocking but is not guaranteed protections from applicable penalties and disincentives.

Two classes of exceptions exist within the reasonable and necessary activities:

- a. Exceptions that involve not fulfilling requests to access, exchange, or use EHI; and
- b. Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI.

Each of the exceptions described below is deemed permissible under the Cures Act and does not constitute prohibited information block activity.

5. **Exceptions that involve not fulfilling requests to access, exchange, or use EHI**

Preventing Harm: Practices that are reasonable and necessary to prevent harm to a patient or another person.

Privacy: If an actor does not fulfill a request to access, exchange, or use EHI in order to protect an individual’s privacy.

Security: If an actor interferes with the access, exchange, or use of EHI in order to protect the security of EHI.

Infeasibility: If an actor does not fulfill a request to access, exchange, or use EHI due to the infeasibility of the request.

Health IT Performance: If an actor takes reasonable and necessary measures to make health IT temporarily unavailable or to degrade the health IT’s performance for the benefit of the overall performance of the health IT.

6. **Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI**

- a. **Content and Manner:** If an actor limits 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.

- b. Fees: If an actor charges fees, including fees that result in a reasonable profit margin, for accessing, exchanging, or using EHI.
 - c. Licensing: If an actor licenses interoperability elements for EHI to be accessed, exchanged, or used.
-

Originator: /s/ Mia Meloni
VP – Chief Compliance & Privacy
Officer

Authorized: /s/ Marc D. Miller
President

IV. Related UHS Policies:

Privacy 3.0
Privacy 18.0
Privacy 19.0
Privacy 21.0

V. Related HIPAA Regulations:

Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
45 C.F.R. § 160.300 *et seq*
45 C.F.R. § 164.502
45 C.F.R. § 164.504
45 C.F.R. § 164.510
45 C.F.R. § 164.512
45 C.F.R. § 164.514
45 C.F.R. § 164.520

VI. Related Sox Operational Processes:

n/a

VII. The Joint Commission Standards:

n/a

VIII. Attachments:

None.