Sutter Health’s Anti-Information Blocking Compliance

October 21, 2020
What is the Cures Act & Information Blocking Compliance?

Office of the National Coordinator (ONC) for Health Information Technology announced the final rule of the 2016 Cures Act.

The new federal regulation acknowledges the important role patients play on their care teams by requiring healthcare providers to electronically release most clinical notes and test results to patients.
What is information blocking?

A practice by a health care provider, health IT developer, health information exchange, or health information network that, except as required by law or specified by the Secretary as a reasonable and necessary activity, is likely to interfere with access, exchange, or use of electronic health information.

This regulation applies to all authors of sharable note types, and care settings.

As of **11/02/2020**, we will be held accountable for compliance with Federal Information Blocking regulations pertaining to data classes within the US Core Data for Interoperability (USCDI).

By **05/02/2022** we will be held accountable for information blocking of ANY electronic health information.
# Information Blocking Exceptions

**Exceptions that involve not fulfilling requests to access, exchange, or use electronic health information (EHI)**

1. **Preventing Harm Exception**
2. **Privacy Exception**
3. **Security Exception**
4. **Infeasibility Exception**
5. **Health IT Performance Exception**

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

6. **Content and Manner Exception**
7. **Fees Exception**
8. **Licensing Exception**

Unless one of 8 exceptions apply, clinical notes must not be blocked.

For more info on Exceptions visit: [https://www.healthit.gov/cures/sites/default/files/cures/2020-03/InformationBlockingExceptions.pdf](https://www.healthit.gov/cures/sites/default/files/cures/2020-03/InformationBlockingExceptions.pdf)
What does this mean for My Health Online?

By 11/2/20, we are required to make available clinical notes and test results readily available to patients via MHO.

We plan to be in compliance by 10/29/20.

There is no opting out.

What information will be shared?

Open Notes

- Release 8 clinical note types
- Includes notes from care centers and authors: acute & ambulatory, surgical, home health, e.g.
- *Historical* Notes will not be released immediately, but will be available through existing HIM Release of information request

Results Release

- Immediate release, Includes Lab and Imaging reports
- No provision for delaying release or withholding results unless release is *prohibited by law*
- *Historical* cytology/pathology results will available for manual release by clinicians
What about Test Results?

Current state at Sutter Health:
- Normal final test results released next day at 6am
- Abnormal test results released 3 days later
- California Sensitive Test Results are not released

As of 10/29/20, we will release normal and abnormal results immediately except those addressed in California Privacy Regulation.

CA state law identifies 4 specific categories of “sensitive” test results which may be released online only after a healthcare professional [either the ordering provider or an authorized delegate] has first orally discussed the results with the patient:

1. HIV antibody test results (positive or negative), unless an HIV test subject is anonymously tested and posted without identifiers
   → Manual Release only
2. Presence of antigens indicating a hepatitis infection
   → Normal results release automatically; abnormal results will require manual release
3. Abusing the use of drugs.
   → Normal results release automatically; abnormal results will require manual release
4. Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.
   → Manual release only

• Historical blocked CA Sensitive Results will not be automatically released but can be manually released by healthcare professionals.
What to expect when composing clinical notes

1. The Epic standard button will be configured and defaulted to ‘Share w/ Patient’

2. Clinicians will have the ability to block individual notes in the patient’s chart if they meet the very restrictive federal criteria for such blocking.
   • This can be done by unselecting the ‘Share w/ Patient’ button

3. The reason specific exception criteria for blocking a note should be documented.
   • This should be done using the new system SmartPhrase (.MYNOTESHIDE) that allows providers to select the Information Blocking Exception criteria that applies to the note.

   This note is not being shared electronically in My Health Online with the patient for the following reason:
   [SH BLOCKED NOTE REASONS: 133484]

   1. To prevent harm: Healthcare professional reasonably believes that blocking this note will directly and substantially reduce a risk of harm to the life or physical safety to the patient, and/or other specific individual(s).
   2. To respect privacy: The patient or proxy has requested that this information not be shared.
   3. Promise of confidentiality: Information in this note was obtained from a non-healthcare provider who was promised confidentiality in exchange for disclosing the information and if it was disclosed their identity would be revealed.
   4. The information in this note is compiled in order to be used in a civil, criminal, or administrative action/proceeding. Please consult with your local risk officer/resource before selecting this option.
   5. California Health and Safety Code §123148. A health care professional has been unable to orally discuss test results within this note prior to its release. Test results must be related to (1) HIV antibodies, (2) the presence of antigens indicating a hepatitis infection, (3) abusing the use of drugs, or (4) processed tissue revealing a malignancy.
Clinician Resource Site

https://tinyurl.com/sutteropen

You will find:
• Provider FAQ
• Overview of Information Blocking Exceptions
• Presentation materials to share with colleagues
• Clinician & Leader Messages
• Know-Do-Share and Epic EHR Tip Sheet documents

If you have questions about OpenNotes and Results Release, please email us at: clinicians@sutterhealth.org
Feedback.... and Questions
APPENDIX
# MHO Teen Enrollment & Access to Features

- Parental consent is required.
- Teens can only enroll in-person (except during COVID-19).

<table>
<thead>
<tr>
<th>Feature</th>
<th>Proxy to Child (&lt;12)</th>
<th>Patient (Self and/ or Teen)</th>
<th>Proxy to Teen (12-17) / Young Adult (18-25)</th>
<th>Proxy to Adult (&gt;18)</th>
<th>Proxy to patient any age with diminished capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical Messaging</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Confidential Messaging</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Tests Ordered / Test Results</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>AVS / Appointment Details</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Rx Renewals</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Auto-Pend Orders</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Direct Scheduling</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Appointment Requests</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Immunizations</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Will change to Y on 10/29</td>
<td>Y</td>
</tr>
<tr>
<td>OpenNotes</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

*proxy can only schedule PCP appointment and message PCP for their teen
To support contactless enrollment for Teen patients, enrollment codes can temporarily be provided by phone.
Notes to be released 10/29

Progress Notes
Consults
Procedures
H&P
Discharge Summary (w/ Epic upgrade on 11/8)
ED Notes
OR Surgeon
OR PreOp
OR Anesthesia
ED Provider Notes
Note to Patient via Portal
Anesthesia Preprocedure Evaluation
Anesthesia Postprocedure Evaluation
Anesthesia Procedure Notes
L&D Delivery Note
Telephone Encounter
Lactation Note

Radiation Planning Notes
Radiation Completion Notes
BH Treatment Plan
Group Note
Code Documentation
Sedation Documentation
Emergency Medicine Consult
Anesthesia Follow-up
Care Team Note
Interdisciplinary Rounding Note
Behavioral Health Note
Coding Query
Interim Summary
Immediate Post Op Note
Operative Report
Event/Code
Delivery Summary

CDI Query
Rapid Response Documentation
Admission Recertification
ED Supplemental Provider Note
ASAP UC Progress Note
Mobile Note
End of Life Option Act
ED Rapid Medical Exam
Interdisciplinary Team Conference
Interdisciplinary Plan of Care
Therapy Discharge Summary
Therapy Evaluation Note
Weekly Summary
COPD Education
Significant Event
NICU D/C Summary
Dialysis Note
Team Structure

Steering Committee
(Bi-Weekly)

Sponsor
Bill Isenberg MD, Exec Sponsor

Pacesetters
Danielle Renc, MHA, Pacesetter
Steven Lane MD, Pacesetter
Howard Landa MD, Pacesetter

Project Management
Pam Beeuwsaet – Project Manager

Focus Group Leaders
Veena Jones MD, MHO/Open Notes
Albert Chan MD, VP Digital Patient Experience
Jane Schulze, HIM
Kevin Chen MD, Bay Foundation
Mike Conroy MD, Valley Foundation
Bryanna Gallaway, Patient Experience
Mary Schramke, Patient Family Advisor
Nancy Turner, Communications
Lisa Knowles, Compliance
Kiren Gurai, OGC/Privacy Info Security
Jeremy Harris, OGC/Privacy Info Security
Doug Angove, IS Integration
Sheil Page, IS Applications
Tom Carlson, IS Applications
Christine Jensen, SHP
David Nessim MD, SCC
Julia Adler MD, Mental Health

Proposed Focus Groups
(Weekly)

MHO/ Open Notes
Veena Jones, MD
Tom Mitchell

OGC
Jeremy Harris

HIM
Jane Schulze
Gary Sweeney
Maisha Weary

Informatics
Howard Landa MD
Arthur Sorrell MD
Charu Puri MD
Donna Woelfel
Tim Nichols

Mental Health
Julia Adler MD

SCC
David Nessim MD
Cynthia Matsko

Compliance
Lisa Knowles

OGC /Privacy Info Security
Jeremy Harris
Kiren Gurai
Amber Brown
Hilary Isacson

IS Integration
Joanna Washburn

SHP
Christine Jensen

IS
Tom Carlson,
Sheil Page
Doug Angove
Joanna Washburn

Communications
Nancy Turner
Bryan Gardner

Bay/Valley Operations
Kevin Chen,
Mike Conroy
Kelvin Lam
Ash Gokli
Physicians as needed

Patient Experience
Bryanna Gallaway
Soumitra Gaopande (PFA)

Marketing
Theresa Massie
Vince Jocson
Christina Szeto
Jennifer Crow

Informatics
Arthur Sorrell MD
Charu Puri MD

SCC
David Nessim MD
Cynthia Matsko