

Implementing the Information Block Rule “Preventing Harm Exception”

WEBINAR

APRIL 14, 2021

12 P.M. – 1 P.M.

EDU 2114W

Fee: \$29

OVERVIEW:

The Information Blocking Rule compliance deadline is April 5, 2021. Therefore, hospitals and most other types of health care providers are prohibited from “interfering with” access, exchange, or use of electronic health information (EHI). ONC has made it clear that it will apply a very broad interpretation of what might constitute impermissible interference, even including any delay in the release of EHI when requested. There are eight (8) exceptions to this general rule. Of these, the “Preventing Harm Exception” is likely the most complex exception to understand, interpret and apply.

Over the course of an hour, attorney Helen Oscislowski will unpack the Information Blocking “Preventing Harm Exception” in detail, and suggest practical approaches on how to implement its requirements in the health care setting.

OBJECTIVES:

Participants will walk away from this webinar with a stronger understanding of the following:

- What the minimum requirements are to meet the “Preventing Harm Exception.”
- What are the two ways a “Risk” of harm can arise under this exception.
 - How ONC interprets data to be “known or reasonably suspected” to be misidentified or mismatched, corrupt due to technical failure, or erroneous for another reason.
 - Who qualifies as a “licensed health care professional” for purposes of making determinations of “Risk of harm” under this exception?
 - What other requirements must be met in order for a licensed health care professional to be permitted to make a “risk of harm” determination?
- What the two “Harm” standards are.
 - How has “substantial harm” been interpreted.
 - How has “danger of life or physical safety” been interpreted.
- What are the differences between applying the “preventing harm” standard under the Information Blocking versus under HIPAA, and how can these differences be reconciled and applied?
- How to implement & apply the Preventing Harm Exception when a request comes from:

- An adult patient
- A personal or legal representative of the patient
- A parent of a minor
- A person when there are concerns of abuse or neglect

TARGET AUDIENCE:

Attorneys, compliance officers, privacy officers, security officers

CONTINUING EDUCATION CREDITS:

Continuing Legal Education Statement:

This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for **1.2** hours of total CLE credit. Of these, **0.0** qualify as hours of credits for ethics/professionalism, and **0.0** qualify as hours of credit toward certification in civil trial law, criminal trial law, workers compensation law/or matrimonial law.

Nursing Home Administrators Licensing Board Statement:

This continuing education program is sponsored/conducted by the Health Research and Educational Trust and is in compliance with N.J.A.C. 8:34-7.3 to provide licensed nursing home administrator (LNHA) credits accepted by the Nursing Home Administrators Licensing Board. This education activity may only be used for continuing education credit and not to meet academic college credits.

This education activity has been approved for **1.0** LNHA credits.

DISCLOSURE INFORMATION: Full disclosure will be provided at the educational activity.

FACULTY:

Helen Oscislawski, Esq.
Attorneys at Oscislawski

Helen Oscislawski is selected to the 2020-2021 “Super Lawyers®” list for Health Care Law in New Jersey issued by Thomson Reuters. Her firm was also included on the “Best Law Firms” in Health Care Law, Princeton New Jersey list issued by *Best Lawyers* for 2018-2020. Helen is also a Board Member of the national Women Owned Law, an organization dedicated to supporting women legal entrepreneurs.

Helen is a corporate and regulatory attorney whose practice for over the last 20 years has focused almost exclusively on advising and representing clients in the health care industry. She cemented her reputation as a prominent privacy and health information technology attorney through decades of developed experience and working hand-in-hand with C-suite executives and in-house general counsels on how to structure and manage complex data-sharing arrangements in compliance with applicable federal and state laws. She is known to many as a “go to” attorney for legal guidance and advice on HIPAA, 42 CFR Part 2, data breach response, telehealth, as well as laws regulating the access, use and sharing of medical, health and genetic information. In 2008, New Jersey Governor Jon Corzine appointed Helen to the New Jersey Health Information Technology Commission (NJHITC) to fill the seat designated by statute for “an attorney practicing in this State with demonstrated expertise in health privacy.” In 2010, Governor Christie reappointed Helen to the NJHITC for another 2-year term and she was tapped to serve as its Chair of the Privacy and Security Committee.

Before founding Attorneys at Oscislowski LLC, Helen was a health care attorney with a national law firm for almost a decade where she counseled all types of health care clients on a wide range of legal matters. Helen received her law degree from Rutgers School of Law, with honours, in 1999, and is admitted to practice in New Jersey (since 1999) and Arizona (since 2020). She completed her undergraduate degree at Rutgers University, Douglass College in 1994, with highest honours in her major, and high honours overall. She was inducted into Phi Beta Kappa upon graduation.

Learn more about Helen's law firm by visiting www.oscislaw.com.