

# How to Manage Legacy Data in the Age of Information Blocking: Set Up Your Organization for Success



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Many multi-hospital organizations manage 30 to 40 read-only legacy EHR systems with varying states of usability. There's never been a better time to cut dead weight and create a lean and forward-thinking data management strategy.



# Considerations for Managing Legacy Data

Data in a legacy system is at risk of becoming inaccessible when you need it. The longer it sits and the application and server ages, the more vulnerable it becomes and the less likely it will be accessible and secure when you need it. So, extracting, migrating and archiving legacy data are smart moves to dismantle the risk associated with just leaving it sitting in aging data silos.



## Users want it.

The organization can reduce administrative burden of responding to Requests for Information related to the Cures Act by centralizing legacy data. The day-to-day work of the HIM team is improved.



## Patients demand it.

67% of patients said they would consider changing their doctor or hospital provider in the coming year after learning how their health record was not shareable or available in the past year.



## Hospitals benefit.

The sooner hospitals can comply with the regulations, the better the opportunity for business success. Patient data is more secure and consolidated, plus the cost and burden of maintaining legacy applications are reduced.

# Options for Legacy Data Management

Successful legacy data management will benefit your patients and help protect your organization from being accused of Information Blocking.



## Convert Legacy Data to New EHR

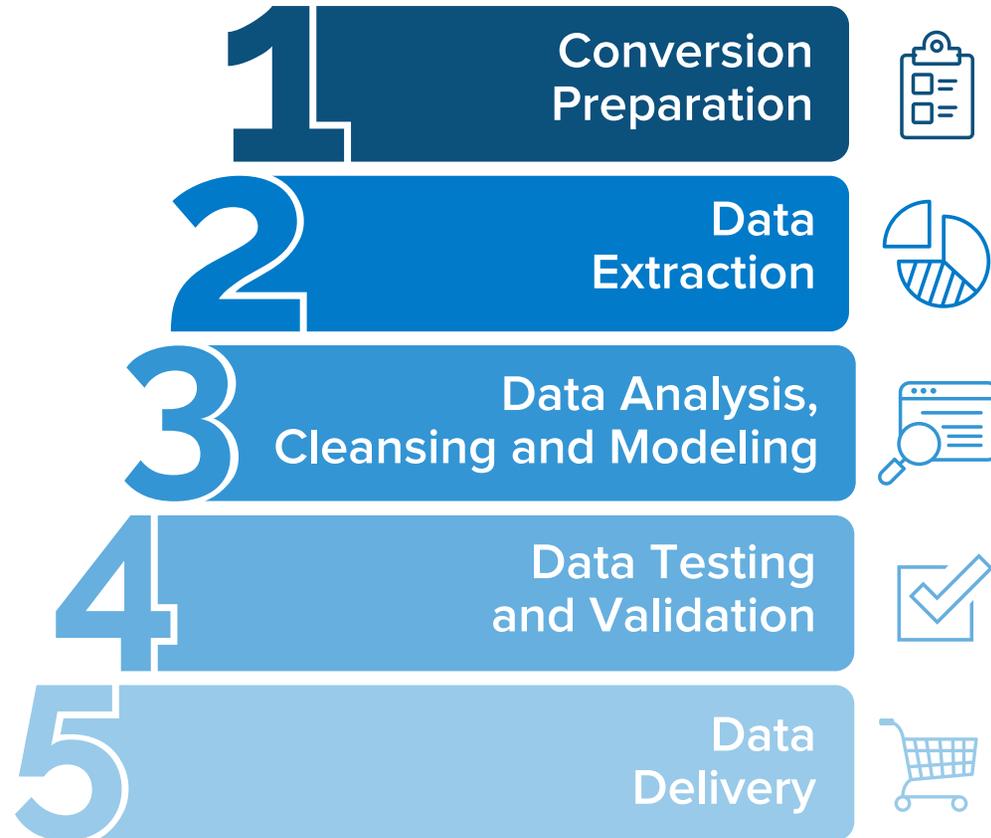
While clinical and HIM teams would like to have all historical data available in the new EHR, it is costly, complex, and time-consuming to map and move all of it. Most provider organizations convert key clinicals (PAMI+P) from the past 24-36 months to the go-forward EHR.

## Migrate Legacy Data to Active Archive

An active archive is an open database that allows for easily mapped, migrated, and consolidated discrete data elements that are readily accessible via Single Sign-on from the go-forward EHR for clinicians and by direct login by the HIM team to perform release of information workflows.

**Both options can support compliance with the Cures Act and help avoid Information Blocking.**

# Five Steps for Legacy Data Migration



# Cures Act Information Blocking Compliance

The provider organization has an obligation under the 21st Century Cures Act to make data available to the patient. Work with your data governance team to understand inventory of data locations, what information is stored, and how information would be released from each location. If the provider organization can attribute failure to provide legacy data via methods stipulated in 21st Century Cures Act to an exception, then the provider organization can provide information to patients in standard format.

## 8 Exceptions to the Information Blocking Provision

Exceptions that involve not fulfilling requests to access, exchange or use EHI:

- Preventing Harm Exception
- Privacy Exception
- Security Exception
- Infeasibility Exception
- Health IT Performance Exception

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

- Content and Manner Exception
- Fees Exception
- Licensing Exception

# Vendor Conduct that Raises Concerns

One of the more common exceptions is the Content and Manner Exception.

A vendor engages in information blocking when engaging in “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 transactions between certified health information technologies.”<sup>1</sup>

## Situations specific to vendor engaging in information blocking



The contractual limitation on the provider organization obtaining a copy of patient data from vendor.



Vendor charging an excessive fee for the provider organization to obtain patient data.



Vendor refusal to work with another vendor for a fee to migrate patient data from an EHR.

<sup>1</sup> 45 CFR 170, 45 CFR 171 <https://www.federalregister.gov/documents/2020/05/01/2020-07419/21st-century-cures-act-interoperability-information-blocking-and-the-onc-health-it-certification>

# Vendor Communication Tips

Work with vendor to obtain data in compliance with information blocking exceptions.



Assess your licensing and business associate agreements with the vendor to determine if they prescribe how the vendor will provide the provider organization with patient data.



If agreements identify method for data delivery, determine the method and price. Does the price seem excessive?



If agreements do not identify method for data delivery, ask the vendor to deliver patient data in a usable format.



If price seems excessive, ask the vendor to describe their fee structure and ask if they charge a similar amount to other provider organizations.



If the format seems unusable to the provider organization, ask the vendor to provide the data in a usable format.



Determine whether the provider organization can afford the price and if the format is acceptable.



Provider organization should confirm the Vendor is governed by the Cures Act before spending time engaging in this activity. Only Certified Health IT Vendors are governed by the Cures Act.

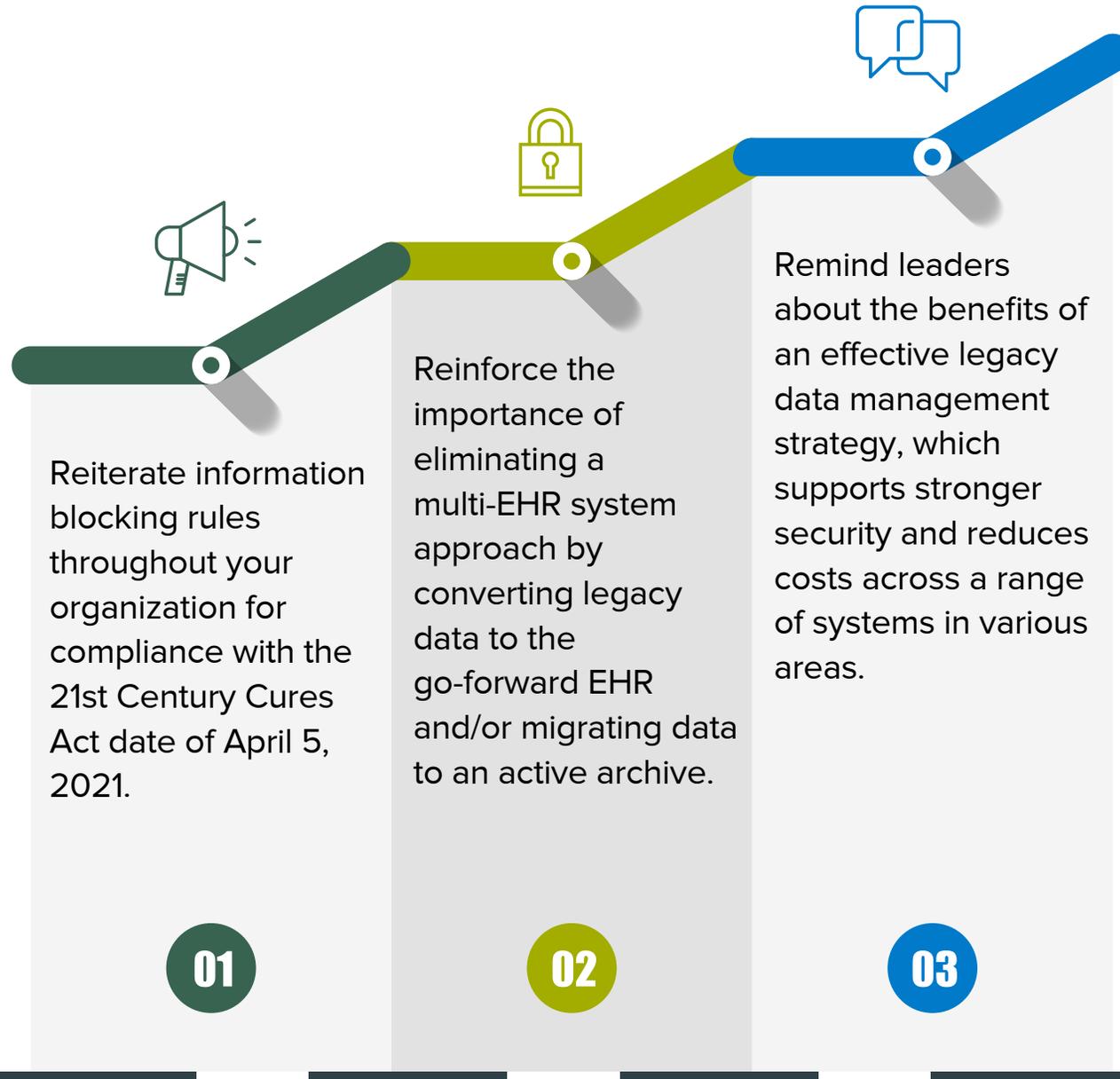


If it is not, let the vendor know the provider organization believes the vendor is engaged in information blocking. The provider organization will document this decision in the provider organization's book of evidence and the provider organization will report the vendor to the ONC as engaging in information blocking.



Give the vendor an opportunity to respond to the claim of information blocking. If the vendor does not reply or comply, then report the vendor and determine how the provider organization will continue to comply with ROI.

# Steps for HIM Team to Take



# Additional Resources

CHIME Public Policy, [Information Blocking Resource Center](#)

Harmony Healthcare IT, [Hijacking PHI—Is it Legal?](#)

HealthIT.gov, [Information Blocking](#)

Harmony Healthcare IT, [Final Rule on Information Blocking Supports Provider's Choice for Health IT](#)

Harmony Healthcare IT, [Consumer Access to Health Records: EHRs, PHRs and the Road to Integration](#)

Harmony Healthcare IT, [21st Century Cures Act Insights on Finalized Rules: Healthcare Providers Who Can Deliver Deeper Medical Record Access to their Patients May See Competitive Advantages](#)

PR Newswire, Black Book Research, [Pandemic Stresses National Need for Seamless Information Sharing Between Healthcare Providers, Black Book 2020 Interoperability Surveys](#)

HealthIT.gov, [Help Center](#)



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