

Certification requirements are not only met but continually being met through the Maintenance of Certification requirements. In this rule, we capitalize “Conditions of Certification” and “Maintenance of Certification” when referring to Conditions and Maintenance of Certification requirements established for the Program under section 4002 of the Cures Act for ease of reference and to distinguish from other conditions.

Information Blocking

Section 4002 of the Cures Act requires that a health IT developer, as a Condition and Maintenance of Certification requirement under the Program, not take any action that constitutes information blocking as defined in section 3022(a) of the Public Health Service Act (PHSA). We have adopted the information blocking Condition of Certification requirement in § 170.401 as proposed. As finalized, the Condition of Certification requirement prohibits any health IT developer under the Program from taking any action that constitutes information blocking as defined by section 3022(a) of the PHSA. We have also finalized that definition in § 171.103.

Assurances

Section 4002 of the Cures Act also requires that a health IT developer, as a Condition of Certification requirement under the Program, provide assurances to the Secretary that, unless for legitimate purpose(s) as specified by the Secretary, the developer will not take any action that constitutes information blocking as defined in section 3022(a) of the PHSA or any other action that may inhibit the appropriate exchange, access, and use of EHI. We have finalized our proposed implementation of this provision through several Conditions of Certification and accompanying Maintenance of Certification requirements, which are set forth in § 170.402. We have also adopted more specific Conditions and Maintenance of Certification requirements,

NOTICE

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