

a health IT developer has contracts/agreements in existence that contravene the requirements of this Condition of Certification, the developer must notify all affected customers, other persons, or entities that the prohibition or restriction within the contract/agreement will not be enforced by the health IT developer. In response to comments, we have finalized in § 170.403(b)(2)(ii) that health IT developers are required to amend their contracts/agreements to remove or make void such provisions only when the contracts/agreements are next modified for other purposes and not within the proposed period of time from the effective date of this final rule.

*Application Programming Interfaces (APIs)*

As a Condition of Certification requirement in section 4002 of the Cures Act requires health IT developers to publish APIs that allow “health information from such technology to be accessed, exchanged, and used without special effort through the use of APIs or successor technology or standards, as provided for under applicable law.” The Cures Act’s API Condition of Certification requirement also states that a developer must, through an API, “provide access to all data elements of a patient’s electronic health record to the extent permissible under applicable privacy laws.” The Cures Act’s API Condition of Certification requirement in section 4002 includes several key phrases and requirements for health IT developers that go beyond the technical functionality of the Health IT Modules they present for certification. This final rule captures both the technical functionality and behaviors necessary to implement the Cures Act API Condition of Certification requirement. Specifically, we have adopted new standards, new implementation specifications, a new certification criterion, and have modified the Base EHR definition. In addition, we have finalized detailed Condition and Maintenance of Certification requirements for health IT developers.

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