

### What is the Cures Act?

The 21st Century Cures Act ("Cures Act") is a bipartisan-backed law passed in December 2016 and implemented through rulemaking in 2020. It aims to establish policies that "break down barriers in the nation's health system to enable better patient access to their health information, improve interoperability, and unleash innovation, while reducing the burden on payers and providers."<sup>1</sup> Components of the Cures Act began taking effect in 2021, with new requirements coming online in October 2022.

Rules published by the Office of the National Coordinator for Health Information Technology (ONC) and the Centers for Medicare & Medicaid Services (CMS) expand on requirements for compliance:

- Individuals shall securely and easily obtain and use their electronic health information (EHI) from the provider's medical record for free, using the smartphone app of their choice.
- Interoperability among providers and patient access to health information is enforced by CMS.

### What data must be accessible?

A standardized set of health data classes and data elements must be accessible for nationwide, interoperable health information exchange, and it is intended to set "a foundation for broad sharing of electronic health information to support patient care."<sup>2</sup>

This information may already be in your EHR system and includes the following data elements:

- Patient information
- Vital signs
- Health concerns
- Labs
- Medications
- Assessment
- Plan of care
- Care team members
- Clinical notes
- Patient goals

### Who must comply?

Health care providers must comply with the Cures Act, and that includes skilled nursing facilities, assisted living communities, home health entities, and other long-term care providers.

### When does this take effect?

Beginning October 16, 2022, all EHI must be made available (including non-standard EHI) to residents and care partners.

### What if I do not comply?

Under the Cures Act, health care providers who engage in information blocking may be "referred to the appropriate agency to be subject to appropriate disincentives using authorities under applicable Federal law, as the Secretary [of HHS] sets forth through notice and comment rulemaking."

Further rule making on compliance penalties is expected.

### How is the CURES Act different than HIPAA?

The Cures Act is a supplement to and not a replacement of HIPAA compliance.

Patients have always had a right to access their patient records under HIPAA. The Cures Act expands this right to include the quick and free access to their health information. The Cures Act's purpose is to make EHI available to patients without cost or delay.

Providers should work with electronic health record (EHR) vendors, privacy officers, and legal counsel to ensure they are providing patients with free and easy electronic access to their health records and are not engaging in any information blocking.

### What steps should my organization take now?

1. Be aware that patients now have the right to clinical notes (and the other items listed above).
2. Contact *How's Mom* to learn how the app supports compliance with the new requirements of the Cures Act.
3. Contact your EHR provider and confirm what information will become accessible to residents and families. Ask if the company is offering additional resources or training for you and your staff.
4. Educate your staff on the new requirements.

#### Sources:

- <sup>1</sup> Interoperability and Patient Access Fact Sheet, <https://www.cms.gov/newsroom/fact-sheets/interoperability-and-patient-access-fact-sheet>.  
<sup>2</sup> The Office of the National Coordinator for Health Information Technology, [healthit.gov/cures/sites/default/files/cures/2020-03/USCDI.pdf](https://healthit.gov/cures/sites/default/files/cures/2020-03/USCDI.pdf).

To learn more about the Cures Act and the ways *How's Mom* enables compliance, visit [Howsmom.net](https://www.howsmom.net) or call 888-752-7575.