



**HEALTH INFORMATION & THE LAW USER GUIDE**

**About the Project..... 1**

**Why Health Information Law Is Important ..... 1**

**Who We Are ..... 2**

Project Staff..... 3

Standing Committee Members..... 3

**Product Offerings ..... 4**

**Navigation Links ..... 5**

**Topics Defined..... 6**

**Provider Types Covered..... 8**

**Payer Types Covered..... 8**

**Facility Types Covered..... 9**

**Content Updates..... 9**

**About the Project**

HealthinfoLaw.org addresses the current legal and regulatory framework of health information law and changes in the legal and policy landscape impacting health information law and its implementation with commentary, analysis, and decision-making tools. The site offers descriptions and links to individual federal and state statutes, is searchable on topics such as ‘antitrust,’ ‘confidentiality,’ ‘privacy,’ ‘quality,’ and ‘security of information,’ and provides timely analyses of key health information law issues. It also allows users to see and understand the application of the law in their own geographic areas and how state law intersects with federal requirements and programs. The site is constantly updated and is a growing resource.

**Why Health Information Law Is Important**

We are in an information revolution in health care, rapidly approaching an age in which all medical records

and related information will be maintained electronically. Data on a scale only recently imaginable will pass between individuals and institutions and be used in ways we cannot yet predict as the current healthcare delivery system undergoes a major transformation towards a more robust, evidence-based endeavor highly reliant on health care data for purposes ranging from research to improved real-time care coordination. At the same time, access to, use and release of health information, particularly individually identifiable data, is highly regulated at both the federal and state levels. How do current laws enable or limit this transformation? Are modifications of current laws or new laws necessary? How does the current legal landscape affect the roles and priorities of health system stakeholders ranging from patients and consumers to employers and insurers, health care providers and states? How do emerging technologies create new legal standards? How do legal issues differ depending on the particular data exchange model in question? How can data inform the elimination of racial and ethnic disparities in health care? All of these questions are critical to the future of the American health care delivery system.

Although the move to electronic data raises new legal issues, it's important to remember that many of the questions above have existed in some form for a long time. Some of the most pressing legal issues related to health information, such as privacy considerations and liability for health care quality stretch back hundreds of years, to the origins of modern medicine. However, several things make today's landscape different. Our legal system is addressing the role of information in these age-old relationships in new ways, from the Health Insurance Portability and Accountability Act (HIPAA, 1996), the American Recovery and Reinvestment Act's Health Information Technology for Economic and Clinical Health Act (ARRA HITECH, 2009), and the Patient Protection and Affordable Care Act (ACA, 2010) to state regulations on health insurance exchanges. Now more than ever, the law places real as well as perceived barriers and burdens on the collection and use of health care data, but also affords protection and opportunities for properly structured arrangements. Important issues of privacy and consumer protection arise around new payment structures and new expectations for patient safety and high quality care. At the same time, there continues to be little awareness of the legal issues surrounding access to and use of health care information, both clinical and financial.

Health information law exists at the intersection of many crucial and interrelated fields: law, health care, consumer protection, information technology, public health, and insurance. Each small change can trigger a daunting set of issues and challenges. HealthInfoLaw.org offers keys to understanding the laws that govern health information and the implications they can have across health care and beyond.<sup>1</sup>

## Who We Are

A project of the George Washington University's Hirsh Health Law and Policy Program, Health Information and the Law (HealthInfoLaw.org), developed with support from the Robert Wood Johnson Foundation, is designed to serve as a practical online resource to federal and state laws governing access, use, release, and publication of health information.

---

<sup>1</sup> For further reading on the role of health information for health care system reform, please refer to "Health Transformation and the Role of Health Information Law" written by Jane Hyatt Thorpe for [Public Health Reports](#), [available here](#).

## Project Staff

[Sara Rosenbaum, JD](#)

- [sarar@gwu.edu](mailto:sarar@gwu.edu)

[Jane Hyatt Thorpe, JD](#)

- [jthorpe@gwu.edu](mailto:jthorpe@gwu.edu)

[Lara Cartwright-Smith, JD, MPH](#)

- [laracs@gwu.edu](mailto:laracs@gwu.edu)

[Taylor Burke, JD, LLM](#)

- [taylorb@gwu.edu](mailto:taylorb@gwu.edu)

Elizabeth Gray, JD, MHA, CHC

- [egrays11@gwu.edu](mailto:egrays11@gwu.edu)

Marie Mongeon

- [mmongeon@gwu.edu](mailto:mmongeon@gwu.edu)

## Standing Committee Members

[Thomas Barker, JD Partner, Foley Hoag](#)

[Robert Berenson, MD Institute Fellow, Urban Institute](#)

[Neil Calman, MD President and Chief Executive Officer, Institute for Family Health](#)

[Guy Collier, JD, MPH Partner, McDermott Will & Emery](#)

[Eric Goplerud, PhD Senior Vice President and Director, NORC](#)

[Jeff Levi, PhD Executive Director, Trust for America's Health](#)

[Patricia Montoya, MPA, BSN Director, Albuquerque Coalition for Healthcare Quality, Health Insight New Mexico](#)

[Michael Painter, JD, MD Senior Program Officer, Robert Wood Johnson Foundation](#)

[Bruce Siegel, MD, MPH, President and CEO, America's Essential Hospitals](#)

Questions? Comments? Email Us at [info@healthinfolaw.org](mailto:info@healthinfolaw.org).

## Product Offerings

**[Briefs:](#)** Briefs offer a unique perspective on issues such as data collection and use in the health insurance marketplaces and an analysis of the Final HIPAA Omnibus Rule. Briefs are found in the Analysis section and are written by our project staff.

**[Comparative Maps:](#)** Comparative maps provide a state-by-state comparison of health information related issues across the country, and display variation in discrete topics and provide links to the relevant state laws or regulations. Maps can be found in our Analysis section, and are created by our project staff for Healthinfolaw.org.

**[Decision Support Tools:](#)** Decision support tools are to be used by providers, consumers, and policy makers and are to be used to aide in decision making of complicated health care issues. They are presented as flowcharts, sample forms, and interactive resources. These tools can be found under the Resources tab. They are developed by project staff exclusively for Healthinfolaw.org.

**[Fast Facts:](#)** Fast Facts provide quick answers to specific topics related to the use and exchange of health information and the changing landscape of health care transformation, and can be found under the Analysis tab. Fast Facts are written by our project staff in order to clarify issues surrounding health information.

**[Glossary:](#)** Our glossary defines key terms used throughout the website. It can be used as a reference in conjunction with the content found on our website, or as a stand-alone document. The glossary can be found under the Resources tab, and has been compiled by project staff using a variety of authoritative sources.

**[Highlights:](#)** Highlights reflect newly added content on Healthinfolaw.org, and are found on the Homepage.

**[Key Developments:](#)** Key developments encompass new federal regulations, studies, or papers pertinent to the use and exchange of health information or the changing landscape of health care transformation. Key Developments are found under the Resources tab, as well as on the right sidebar of each page. These reference research, papers, and studies conducted by the government as well as other leading organizations.

**[Multimedia:](#)** The multimedia section features interviews with leaders in the field of health information. Multimedia materials can be found under the Resources tab. This section also includes presentations given by project staff.

**[Myth Busters:](#)** Myth Busters are short pieces that dispel commonly held myths regarding the use and exchange of health information. Myth Busters can be found under the Analysis section. Myth Busters are written by our project staff in order to dispel commonly held myths surrounding the use and exchange of health information.

## Navigation Links

**Home:** The homepage contains a Highlights section, which reflects new content that has been posted on our website as well as the most important news relating to health information. The homepage also contains links for more information about the project and Key Developments on the right sidebar.

**Topics:** The Topics tab identifies the topics that the website covers. Once a user clicks on a topic under the Topics tab, he or she will find analyses, resources, comparative maps, federal laws, and/or states with laws on that particular topic. Please note that we are constantly updating our website, so new topical content will be added weekly.

**Federal:** The Federal tab identifies the federal laws most relevant to health information. The drop-down menu allows users to directly click on a federal law and be taken to our summary of that law. Clicking on the federal tab will take the user to an overview of federal laws relating to health information with links to our summaries of those federal laws.

**State:** The State tab contains our library of comprehensive state research. Under the overview, users will see a map highlighting our progress on the state law research. The states that have been comprehensively researched are labeled “completed” while those that have content in them due to a 50 state comparative map are labeled “in progress.” Users can click on a state, and they will be taken to a landing page that hosts state laws and other information. All state laws are listed and searchable using their relevant Blue Book Citation and title. Individuals using the website search tool for a law via Blue Book Citation should omit the “§” symbol.

Each state-landing page contains a brief snapshot of the state’s health information policy. State laws have been compartmentalized into topics that are listed on the first page. To browse state laws, users should click on a topic of interest. Within each topic, laws are broken up into more specific subtopics. For example, upon choosing NY → Patient Safety, users will find the following tables:

Subtopic	Statute/Regulation	Description
<b><i>Patient abuse/neglect reporting: For specific health care facilities</i></b>	<a href="#"><u>N.Y. Soc. Serv. Law § 461-o - Complaint Investigation Procedures</u></a>	The department must create procedures for receiving and investigating complaints about adult care facilities. These procedures must ensure that the...

Specific state law summary pages may be visited by clicking the link to the law.

**Analysis:** Under the Analysis tab, users will find content written by project staff relevant to health information. The Analysis section is comprised of Briefs, Comparative Maps, Fast Facts, and Myth Busters (see description above in content types). Users may click on any of these from the drop-down menu under Analysis, or be taken to a chronological list of analyses by clicking directly on the Analysis tab.

**Resources:** Under the Resources tab, users will find a drop-down menu with links to our Decision Support Tools, Key Developments, Glossary, and Multimedia.

**About Us:** The About Us tab provides users with access to information about the project, as well as this user guide. In the “About the Project” section, users will find staff names, credentials and contact information, as well as a brief introduction to healthinfolaw.org. The user guide provides users with additional content that will enhance their knowledge and experience of the website.

## Topics Defined

**Antitrust** Antitrust law regulates the conduct and organization of business corporations to promote fair competition that benefits consumers. There are a number of federal and state statutes governing antitrust, which generally prohibit collusion that restrains trade, restrict mergers and acquisitions that could substantially limit competition, and prohibit the creation of monopolies and the abuse of monopoly power. In the healthcare information context, antitrust law impacts whether and how providers and insurance companies share health information or use health information exchanges.

**Care Coordination/Care Management** Care coordination facilitates the appropriate delivery of health care services by integrating care activities across multiple providers who are dependent upon each other to carry out disparate activities in a single patient’s care. Every participant requires adequate knowledge about his/her own and others’ roles, as well as about available resources, and must rely on the exchange of information to acquire this knowledge. Care coordination involves entities such as Accountable Care Organizations (ACOs) and Medical/Health Homes; communication and sharing of information between and among providers; treatment, discharge, and transfer planning; and disease management.

**Equity and Disparities** Health equity refers to equality in health and healthcare, including health outcomes and access to health care, across different racial, ethnic, sexual orientation, gender, and socioeconomic groups. Health disparities exist where health and healthcare is different according to differences in populations. This topic covers the collection of information on minority health, health service planning on a geographic or demographic basis, language or cultural service requirements for health plans and healthcare providers, and laws that deal with disparities reduction.

**Federal and State Program Integrity** Program integrity refers to efforts to improve government assistance programs by reducing fraud, waste, and abuse, increasing efficiency, and streamlining administrative practices. This topic includes laws on false claims, self-referrals, kickbacks, and audit procedures.

**Health Information Technology** Health information technology (HIT) allows the comprehensive management of health information and enables its exchange among health professionals, healthcare providers, healthcare payers, and public health agencies. This topic includes laws governing electronic health records, telehealth, electronic information security, health information exchanges, and electronic billing and claims submission.

**Health Insurance Exchanges** A health insurance exchange (often referred to as a “marketplace” or HIX) is a concept introduced by the Affordable Care Act, and is a set of government-regulated and standardized health care plans from which individuals and small businesses can purchase health insurance. This topic covers a description of state exchanges, as well as requirements for recordkeeping, data collection, reporting, confidentiality, disclosure and access to data.

**Medicaid and CHIP Data Requirements** Medicaid and CHIP are healthcare programs financially sponsored by the federal government and operated by each state. This topic includes a description of state programs and covers requirements for records maintenance, reporting, recordkeeping, confidentiality, and access, as well as care coordination, quality reporting and the meaningful use program.

**Medicare Data Requirements** Medicare is a healthcare program financially sponsored and administered by the federal government. This topic covers requirements for records maintenance, reporting, recordkeeping, confidentiality, and access, as well as care coordination, quality reporting and the meaningful use program.

**Medical Records Collection, Retention, and Access** Medical records are those records kept on individual patients by providers that include health history, diagnostic information, and provider notes, among other pieces of data. Medical records can be kept on paper or electronically. This topic covers records maintenance as a condition of provider licensure, recordkeeping requirements for a variety of facilities, and laws governing record retention and ownership, access to records, data collection, and storage and destruction.

**Patient Safety** Patient safety is a subset of healthcare quality that is both a healthcare discipline as well as an attribute of health care systems that minimizes the frequency and severity, and maximizes recovery from, adverse healthcare events. This topic covers reporting requirements for adverse and sentinel events, patient abuse and neglect, and malpractice, as well as oversight programs.

**Peer Review** Peer review in the medical context is a process in which a professional body evaluates a practitioner's competence and/or professional conduct to determine whether the practitioner has met relevant standards of care in the performance of his/her duties. Peer review may be used to determine a practitioner's clinical privileges or membership in a professional society. Peer review is primarily concerned with promoting health care quality and patient safety. This topic covers laws about the confidentiality and disclosure of information held by a medical board or obtained through a peer review process.

**Privacy and Confidentiality of Health Information** Privacy and confidentiality of health information pertains to patient's right to the confidentiality of his or her medical information as well as rules governing when and how a provider may disclose information and to whom.

**Private Insurance Data Requirements** Private insurance refers to any health insurance plan or carrier that is not a government-sponsored payer. This topic includes laws on reporting requirements, correction, amendment, and deletion of insurance information, privacy and disclosure notification requirements, cost reporting, and confidentiality requirements, as well as laws governing certain subsets of information collected and used by insurance plans, such as preexisting conditions and genetic information.

**Resource Use (Cost/Utilization) Measurement and Reporting** Resource use captures indicators of the cost and efficiency of health care. The amount and cost of the resources used to create a specific product, such as a visit, procedure, or a specific health outcome, are reported to help evaluate efficiency and

quality of health care services. This topic covers the reporting of cost, utilization, and financial data by providers as well as the collection of that information from a variety of facilities.

**Public Health Data Collection and Reporting** Public health data is information on health behaviors, diseases, and injuries. This data is collected and analyzed to determine the frequency of or risk factors for deaths, illnesses, and injuries across a particular geographic area. This topic includes reporting requirements for several types of health care facilities and for specific diseases such as cancer, HIV/AIDS, brain tumors, and STDs, laws governing registries that collect information for public health purposes, and screening requirements for reportable diseases.

**Quality Measurement and Reporting** Quality measurement aims to quantify various healthcare processes, outcomes, patient experiences, and organizational structures. Information obtained through quality measurement enables patients to pursue the best available care and gives feedback to health care providers and facilities to help address quality issues and make improvements. This topic covers quality assurance programs, quality assessment and performance measurement, quality reporting requirements, patient satisfaction, grievance programs, and confidentiality requirements.

**Research** This topic covers the use of certain types of information for research purposes, including publicly reported data, disease-specific information, and registry data, as well as specific types of research, such as mortality and morbidity studies, studies for epidemiological purposes, and comparative effectiveness research. This topic also includes laws governing research authorization, confidentiality of research data, informed consent, and access to research information.

**Security of Health Information** Security of health information includes requirements for storage of health information and technical and nontechnical safeguards for health information, as well as laws governing unauthorized access or disclosure of health information and penalties for violating the security of health information.

## Provider Types Covered

### Health Care Professionals

- Physicians (MDs & DOs)
- Nurse Practitioners (NPs, FNPs)
- Physicians' Assistants (PAs)
- Nurse-Midwives (to the extent that they function like NPs)
- Pharmacists

## Payer Types Covered

### Insurers – State-regulated only

- Managed Care (HMOs, etc.)
- Private health plans

## Facility Types Covered

### Health Care Facilities

- Hospitals (Acute Care Facilities/Inpatient)
- Hospital-based providers (e.g., hospital-based outpatient clinic)
- Health centers (Community Health Centers (CHCs), Federally Qualified Health Centers (FQHCs), Rural Health Centers (RHCs))
- Medicaid-specific facilities (to the extent that the topic applies to their Medicaid participation) (Skilled Nursing Facilities, Intermediate Care Facilities for the Mentally Retarded (ICF-MRs), PACE Providers)
- Hospice
- Home health
- Laboratories
- Nursing homes (incl. long-term care facilities)
- Ambulatory care facilities/ambulatory surgical centers
- Outpatient clinics
- Freestanding birthing centers

## Content Updates

States are continually updating their existing laws by repealing laws, creating new laws, and updating their website servers that host laws. To help users determine when research was added or when content was updated on our website, material now displays a “Last Updated” time at the bottom of the web page. They are displayed under content as demonstrated below.

**Maps:** [Updated: date] The introduction to the map indicates when the underlying research was conducted; summaries may have been updated since then, which will be reflected on the law summary page itself.

**State Landing:** [Last Updated: date] The bottom of each snapshot indicates when the underlying research was conducted. At the latest, state landing pages were updated in September 2014.

**State Laws:** [Current as of: date] The bottom of the summary indicates when law was last reviewed, therefore the summary reflects the law at that time.