



Understanding Patient Consent for Healthcare Organizations

Frequently Asked Questions (FAQs)

[What is patient consent?](#)

[How does a patient give consent?](#)

[How does the consent process work?](#)

[Who can see a patient's protected health information \(PHI\)?](#)

[What can they see?](#)

[What do you mean by "Provider"?](#)

[How is a patient's health information protected?](#)

[How is authorization managed?](#)

[How does the NMHIC HIE know that a patient's healthcare provider accessed their information?](#)

[Does consent expire?](#)

[Is the information in the NMHIC HIE different than the information a patient's healthcare provider already has about them?](#)

[Don't healthcare providers share patient information with each other already?](#)

[Can a patient opt out of participating in the NMHIC HIE?](#)

[If a patient is in the emergency room and can't give permission, can the ER doctor access their patient records?](#)

[Once a provider "breaks the seal" to access patient records, can they always look at their records?](#)

[Can a patient opt back in if they change their mind?](#)

[How does a patient request changes?](#)

What is patient consent?

New Mexico law states that patients must give consent before authorized providers at different healthcare organizations and their facilities may view and share information in the patient's NMHIC HIE electronic medical record.

How does a patient give consent?

At each healthcare organization where a patient receives care, the patient will be asked to provide written consent to allow access to the patient's NMHIC HIE record. The NMHIC HIE consent form can be included with the other consent forms the organization is required to provide to the patient.



How does the consent process work?

When a patient signs the NMHIC HIE consent form, a consent flag is added to their NMHIC HIE record that allows their authorized providers to view their personal health information.

When a patient visits their doctor or specialist and gives consent, then the patient's personal health information can be exchanged electronically and securely.

Who can see a patient's protected health information (PHI)?

An authorized user can view the patient's record, including the most current medical history, recent labs, and test results from participating healthcare organizations and their facilities. There are different levels of restricted access for administrative and clinical staff.

What can they see?

The New Mexico Electronic Medical Records Act, passed by the state legislature in 2009, established that all available electronic health information is included in the NMHIC HIE. All patient information is sent to a secure storage area where data is organized and maintained.

This means that all clinical information from participating healthcare organizations and their facilities is available and included in the HIE, including specially protected information. All medical records are confidential under the federal regulation known as HIPAA. New Mexico and other federal laws provide special protection for certain medical conditions and/or test results, including human immunodeficiency virus (HIV), sexually transmitted diseases, genetic information, alcohol and drug treatment, and behavioral health treatment. Because this information is not separated out, the patient's consent covers all information in the HIE.

What do you mean by "Provider"?

A provider under the New Mexico Electronic Medical Records Act is an individual licensed, certified, or otherwise permitted by law to provide health care in the ordinary course of business or practice of a profession.

How is a patient's health information protected?

The privacy, confidentiality, and security of personal health information are protected by state and federal laws. These protections are safeguarded and built in to the NMHIC HIE.

All health organizations and their facilities that participate in the NMHIC HIE are required by contract to meet the rigorous privacy and security standards as defined by HIPAA and the HITECH Act. All health organizations and their facilities that participate in the NMHIC HIE are required to safeguard the confidentiality, integrity, and availability of your health information.

Participating healthcare organizations and their facilities are responsible for ensuring that their end-users are accessing patient information appropriately based on their organization's



pre-established consent rules, HIPAA, and applicable state law. The healthcare organization is responsible for the following on-going tasks:

- Obtaining and collecting signed patient consent forms and integrating the process into their workflow.
- Monitoring appropriate patient record access by participating healthcare organization and their facilities' staff.
- Maintaining appropriate policies and procedures for patient consent management, including system administration for managing consent and updating consent status if it changes.
- Ensuring that appropriate justifications are provided for “Break the Seal” access, and that steps are taken to obtain written consent following any “Break the Seal” access.
- Correcting inappropriate access by healthcare organization' staff in a timely manner and reporting inappropriate “Break the Seal” situations to the Participant’s Privacy Officer and NMHIC as soon as possible.

How is authorization managed?

The NMHIC HIE allows for secure access by authorized users only and supports the state requirement for patient consent at the healthcare organization level. This includes the ability to manage change to the status of consent when a patient’s legal status changes (i.e., minor child to adult), a patient’s decision to withdraw consent, a patient’s decision to Opt Out of participating in the NMHIC HIE altogether, and a patient’s decision to Opt Back In and participate in the NMHIC HIE.

How does the NMHIC HIE know that a patient’s healthcare provider accessed their information?

All authorized users of the NMHIC HIE have individual user names and passwords to access the NMHIC HIE system. Every time someone accesses the NMHIC HIE, the system logs that information.

Does consent expire?

Consent remains in effect and does not expire. However, a healthcare organization may choose to annually review and renew their consent files, so a patient may be asked to confirm their previous consent decision.



Is the information in the NMHIC HIE different than the information a patient's healthcare provider already has about them?

The NMHIC HIE does not create, change, or remove information about the patient. The information stored within the NMHIC HIE is what the participating healthcare organization created themselves in the normal activities of the healthcare organization and their facilities (medical records). The difference is that a provider may view information about care a patient received from other health care providers.

Don't healthcare providers share patient information with each other already?

In most cases, healthcare providers only share enough information to make a referral, but don't usually share the entire record. This can occur with a quick phone call between the healthcare providers, a few sheets of the most current information faxed or mailed to the other healthcare providers, or your entire record could be copied and sent.

It is quite common for a patient to get care from many different healthcare organizations and their facilities. For example, the family healthcare provider works at Healthcare Organization A, your foot healthcare provider works by himself at Healthcare Organization B, and your arthritis healthcare provider works at Healthcare Organization C at the University. These healthcare organizations (A, B, and C) are all individual companies. They only share information on a case-by-case basis.

This means the patient has to work hard to make sure his/her medical information is shared with the correct healthcare organizations (and their facilities) and it's the correct information. Access to the NMHIC HIE allows the healthcare providers to view information and determine for themselves what information is important for the diagnosis and treatment of your problem.

Can a patient opt out of participating in the NMHIC HIE?

If a patient chooses not to participate in the NMHIC HIE, then a consent form is not required. The patient's care team will not be able to access their personal health information in the NMHIC HIE. However, in the event of a life threatening situation where the patient is unable to give consent, a provider can "Break the Seal" and locate the patient's electronic medical record. *Break the Seal* access has a time-limit and is audited.

Patients may choose to Opt Out of participating in the system entirely, meaning no one can view their name or electronic medical record in a NMHIC HIE search, not even in an emergency situation. The Opt Out decision by a patient may possibly cause delays in treatment or require the patient to have repeat lab tests and x-rays if the needed information is not readily accessible through other methods.



The Opt Out decision applies only to the NMHIC HIE. Your healthcare providers can continue to create and store your health information in their electronic medical record system.

Patients may request an “Opt Out – Opt Back In” form by contacting NMHIC HIE at 505-938-9900 or emailing info@nmhic.org.

If a patient is in the emergency room and can't give permission, can the ER doctor access their patient records?

Yes, as long as the patient has not Opted Out of the system, authorized access is for a limited time and it is audited.

Once a provider “breaks the seal” to access patient records, can they always look at their records?

No, access to the NMHIC HIE during a life threatening emergency has a time limit. A consent form will need to be signed by the patient to give them ongoing access.

Can a patient opt back in if they change their mind?

Yes, the NMHIC HIE allows the patient to opt back in if they change their mind after opting out of the NMHIC HIE. Please contact NMHIC HIE for a copy of the “Opt Out – Opt Back In” form at 505-938-9900 or info@nmhic.org.

How does a patient request changes?

The healthcare organization where the patient requests to make the changes should be able to assist them. If the healthcare organization is unable to support a patient's change request, they are encouraged to contact the NMHIC HIE at 505-938-9900 or info@nmhic.org.

[Return to top](#)