

Perspectives on Information Blocking: Insights from National Surveys and Claims Received by ASTP/ONC

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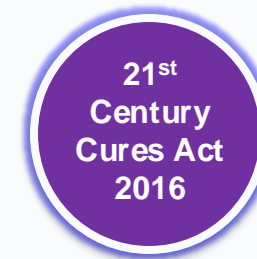
ASTP/Office of the National Coordinator for Health IT

- **Founded in 2004 by executive order, established in statute in 2009**
- **ASTP/ONC is charged with formulating the federal government’s health IT strategy to advance national goals for better and safer health care through an interoperable nationwide health IT infrastructure**



Laying the foundation of EHRs across the industry

- \$40B CMS investment to subsidize EHRs for hospitals and ambulatory providers
- ONC certification of EHR systems to support CMS and CDC programs
- ONC certification now covers EHRs used by 97% of hospitals and 86% of ambulatory providers



Leveraging EHRs to drive value

- Information blocking: Prohibits providers, technology developers, and health information networks from interfering with access, exchange, and use of electronic health information
- Standards: Requires access to information through APIs “without special effort”
- TEFCA: Requires nationwide governance for health information exchange networks – Trusted Exchange Framework and Common Agreement

Quick Review: Elements of the Information Blocking Definition



To be “Information Blocking,” a practice (act or omission) must:

- Be done by actor regulated under the information blocking statute;
- Involve electronic health information (EHI);
- Be likely to interfere with access, exchange, or use of EHI;
- Be done with requisite knowledge by the actor;
- Not be required by law; and
- Not be covered by an exception.

How Common is Information Blocking?

- Capturing the frequency and impact of information blocking has been challenging since 2015 Report to Congress
- Assess changes and policy impact
- Only capture *potential* information blocking
- Data triangulation: using multiple data sources to identify similar and diverging patterns, increase confidence

How Common is Information Blocking? Data from Three Sources

- Health Information Organizations' (HIO) perspectives on information blocking came from national surveys of HIOs
 - 2015, 2019, and 2023.
 - The most recent survey was conducted by researchers at the University of California, San Francisco in collaboration with ASTP and the Civitas Networks for Health
- Hospitals' perspectives came from the IT Supplement to the American Hospital Association (AHA) Annual Survey
 - 2021, 2022, and 2023.
 - The IT supplement is sent to hospital Chief Executive Officers and completed by Chief Information Officers (CIOs) or the person most knowledgeable about the hospital's use of health IT
- ASTP/ONC also receives reports of possible information blocking through its Report Information Blocking Portal on healthit.gov

Information Blocking Claims: By the Numbers

The 21st Century Cures Act (Cures Act), signed into law in December 2016, directed ONC to implement a standardized process for the public to report claims of possible information blocking. This Quick Stats page displays data on claims or suggestions of possible information blocking^[1] ONC has received through the Report Information Blocking Portal since April 5, 2021 – the applicability date of the information blocking regulations.

To best understand and use the information provided, it will be important to keep the following in mind:

- Information provided about the perspectives of those submitting claims and the types of potential actors alleged to be information blocking is based solely on an ONC analyst's inference from the facts and allegations as presented by the claimant.
- Any claim ONC receives is simply an allegation or suggestion that information blocking has occurred. Logging a portal submission as a claim does not imply that an investigation has occurred or been started, or that any determination has been made as to whether information blocking has occurred.
- Where a claim alleges or suggests that conduct implicating the information blocking definition in 45 CFR 171.103 could possibly have occurred, any determination as to whether an information blocking actor's conduct met the information blocking definition or not would require a fact-based, case-by-case investigation and review against all elements of the information blocking definition. To learn more about the information blocking definition and all of its elements, <https://healthit.gov/informationblocking> is a good place to start. Resources available include fact sheets, recorded webinars, and frequently asked questions about the information blocking regulations.
- The Cures Act authorizes the HHS Office of Inspector General (OIG) to investigate any claim of information blocking.

[1] 42 U.S.C. § 300jj–52: Any information that is received by the National Coordinator in connection with a claim or suggestion of possible information blocking and that could reasonably be expected to facilitate identification of the source of the information—(A) shall not be disclosed by the National Coordinator except as may be necessary to carry out the purpose of this section; (B) shall be exempt from mandatory disclosure under section 552 of title 5, as provided by subsection (b)(3) of such section; And (C) may be used by the Inspector General or Federal Trade Commission for reporting purposes to the extent that such information could not reasonably be expected to facilitate identification of the source of such information.

Information Blocking Claims: By the Numbers

Information on submissions received through the Report Information Blocking Portal²

Total number of information blocking portal submissions received	1,171	
Total number of possible claims of information blocking	1,095	93.5%
Total number of submissions received that did not appear to be claims of potential information blocking ³	76	6.5%

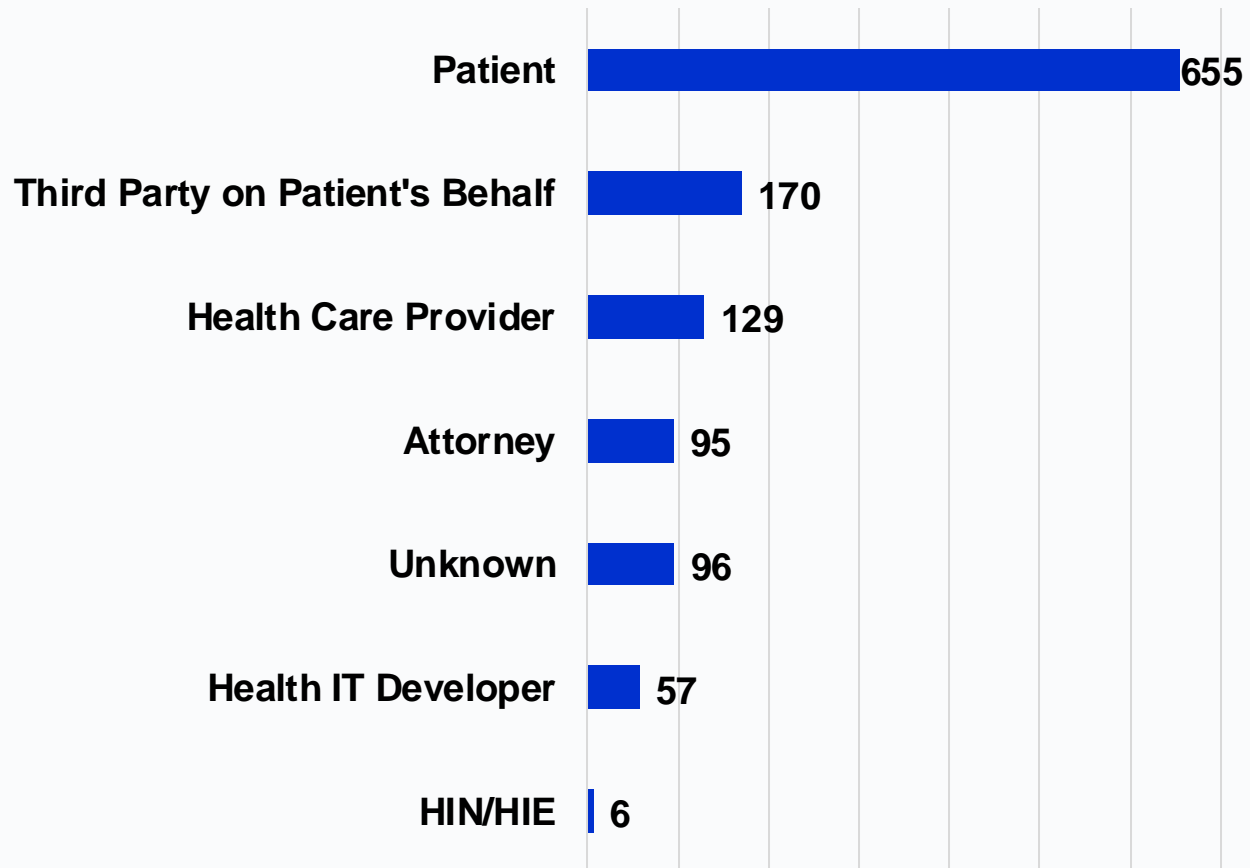
[2] From April 5, 2021 – September 30, 2024.

[3] Examples of submissions that did not appear to be claims of possible information blocking include general policy questions and submissions with a description field containing random text.

Link to Information Blocking Quick Stat Page: <https://www.healthit.gov/data/quickstats/information-blocking-claims-numbers>

Information Blocking Claims: By the Numbers

Claims Counts by Type of Claimant

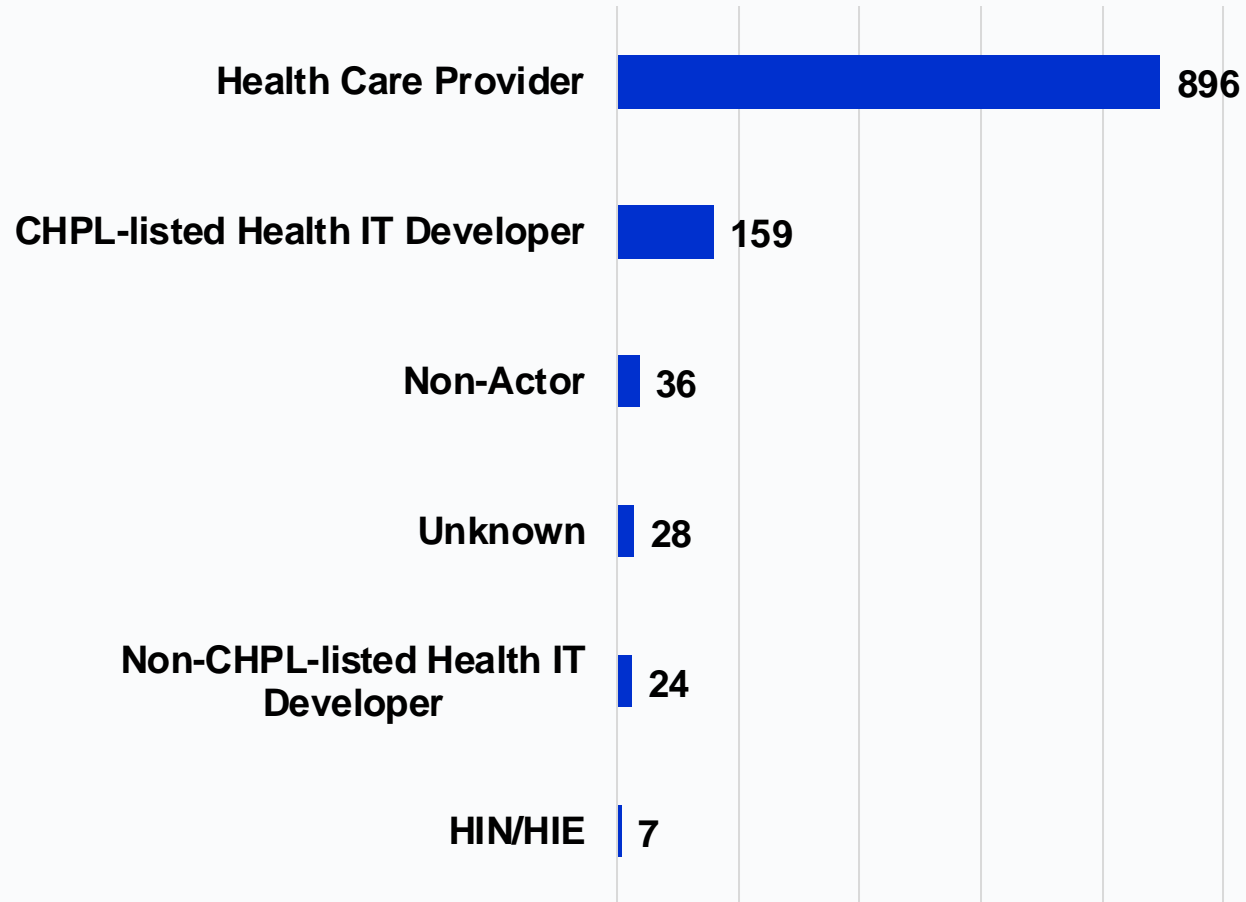


"Type of Claimant" in this context categorizes the individual or entity that submitted the claim of possible information blocking. Within a given claim, the claimant may be identified by more than one category.

- "Patient" in this context means an individual who appears to be seeking or to have sought access to their [electronic health information](#).
- The "Attorney" label is added to a claim in addition to one of the other types of claimant categories. For example, a claim submitted by someone describing themselves as an attorney on behalf of their client, who is a patient, would be counted in both the "Patient" and "Attorney" type of claimant categories.
- A "Health Care Provider" claimant is one who describes themselves as such in the claim, or who an analyst infers, based on what they state in the claim, could potentially meet the definition of health care provider in [45 CFR 171.102](#).
- A claim from a "Third Party on Patient's Behalf" is one that reads as having been submitted by someone other than the patient who is not presenting or describing themselves as an attorney. For example, a claim submitted by the parent of a patient on the patient's behalf would be counted in this category.
- A "Health IT Developer" claimant is one who describes themselves as such, or otherwise appears from what is stated in the claim to develop health information technology (as "health information technology" is defined in [42 U.S.C. 300jj\(5\)](#)).
- "Unknown" means ONC analysts were not able to infer the type of claimant from the facts and allegations as presented in the claim.
- An HIN/HIE claimant is one who describes themselves as such in the claim, or who an analyst infers, based on what they state in the claim, could potentially meet the definition of a health information network or health information exchange in [45 CFR 171.102](#).

Information Blocking Claims: By the Numbers

Claims Counts by Potential Actor

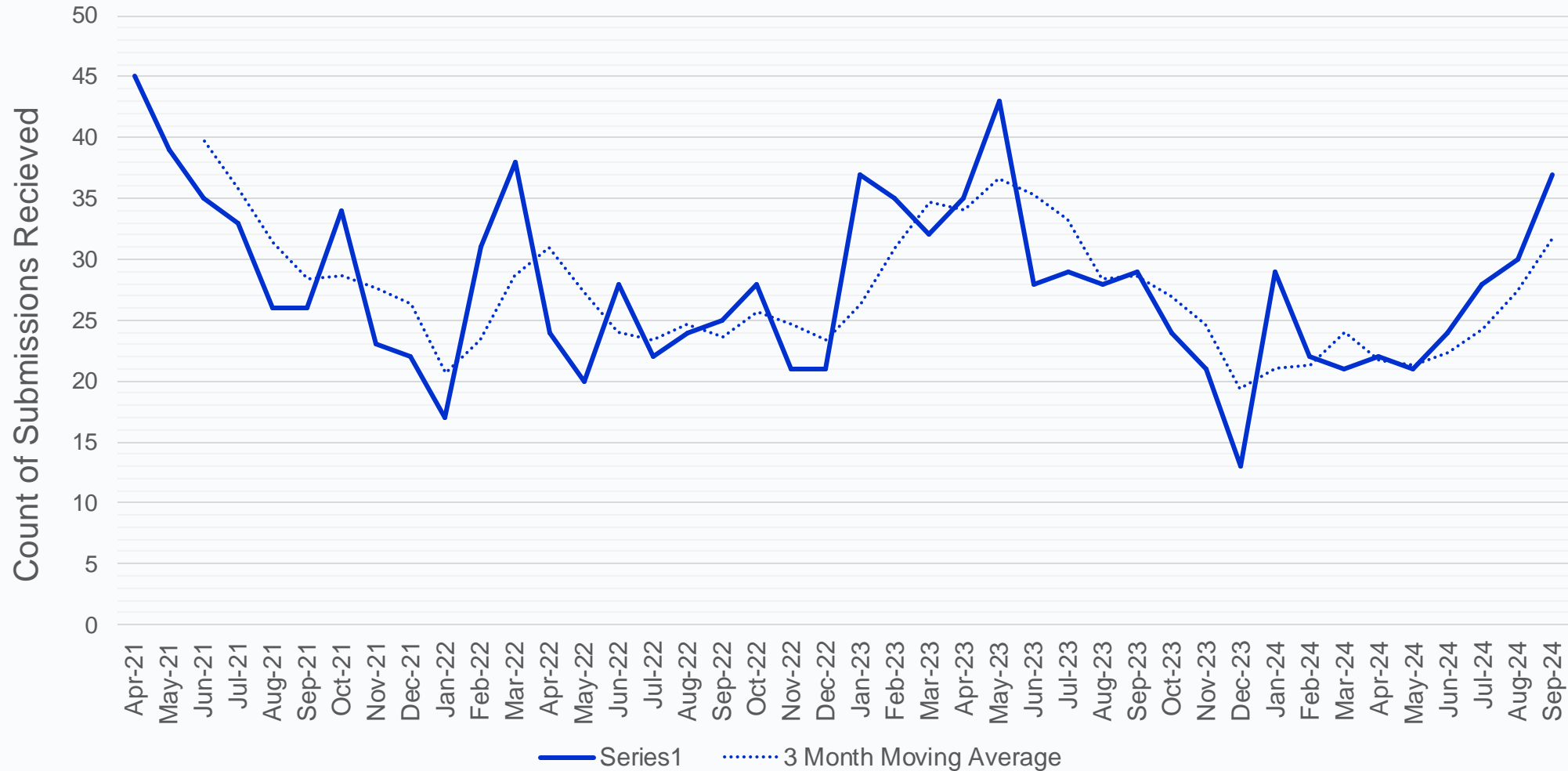


"Potential Actor" in this context refers to the individual(s) or entity/entities that the claimant alleges to be information blocking. To date, there is at least one (1) potential actor identified with each claim of possible information blocking that ONC has received.

- A potential "Health Care Provider" actor is an individual or entity who is described as such in the claim, or who an analyst infers, based on what the claimant states in the claim, could potentially meet the definition of health care provider in [45 CFR 171.102](#).
- "CHPL-listed Health IT Developer" means the claim alleges possible information blocking by a Health IT Developer of Certified Health IT that is listed in the "Developer" column of the [Certified Health IT Product List](#).
- "Non-Actor" means that the individual(s) or entity/entities alleged by the claimant to be possibly information blocking does not appear to potentially fall within any of the defined categories of information blocking [actors](#). One example of a "non-actor" would be a company described as providing internet services where there is no indication or suggestion that the company also does anything that could cause it to meet the definition of a HIN/HIE or "health IT developer of certified health IT" as defined in [45 CFR 171.102](#).
- "Unknown" means a particular type of potential actor could not be inferred from the facts and allegations as presented by the claimant.
- "Non-CHPL-listed Health IT Developer" means the claim identifies an entity that is not listed in the "Developer" column of the [Certified Health IT Product List](#) but the entity appears from the facts and allegations as presented by the claimant to develop or offer health information technology (as that term is defined in [42 U.S.C. 300jj\(5\)](#)).
- A potential HIN/HIE actor is an entity that is described as such in the claim, or who an analyst infers, based on what the claimant states in the claim, could potentially meet the definition of a health information network or health information exchange in [45 CFR 171.102](#).

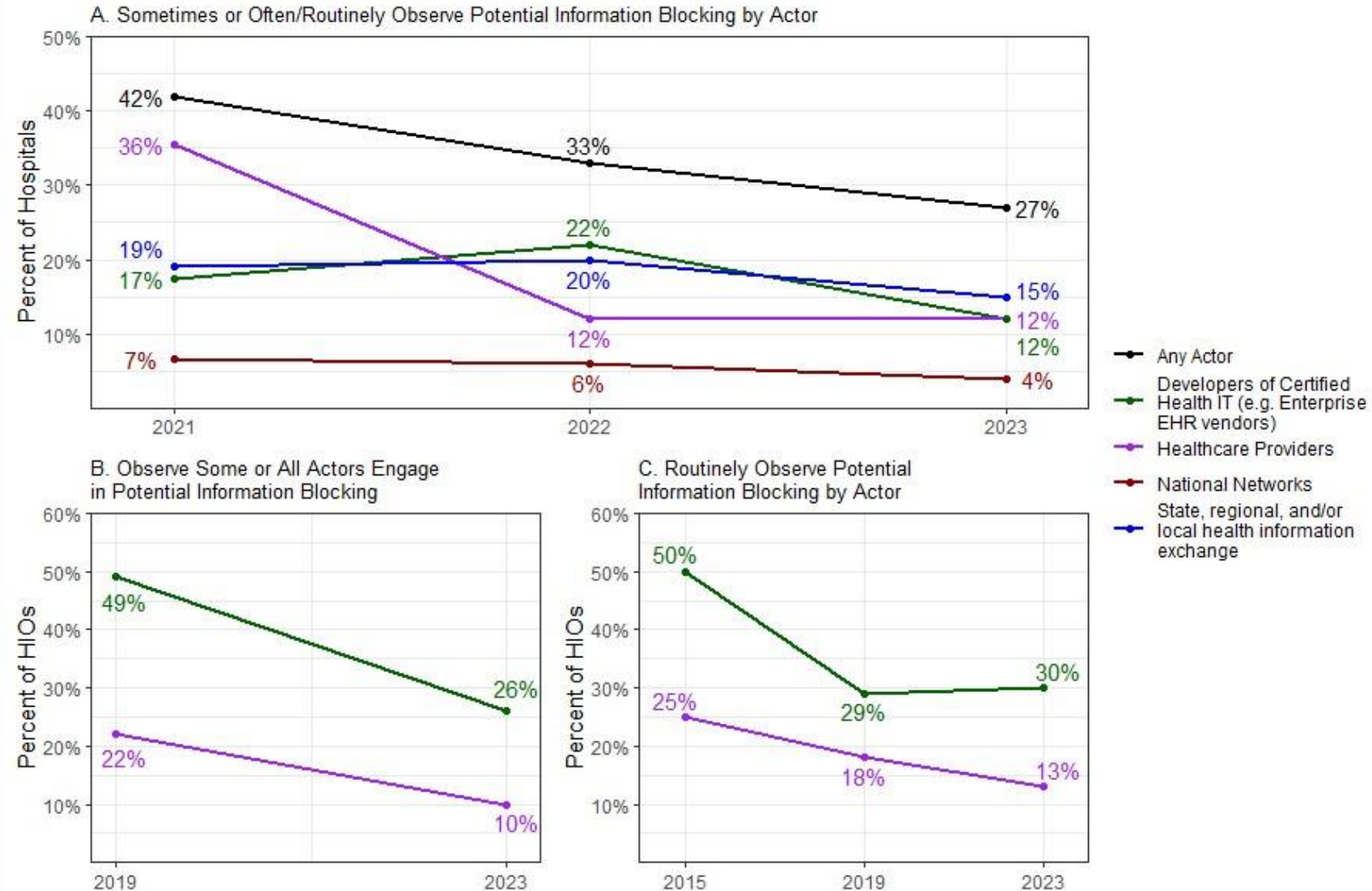
Information Blocking Claims: By the Numbers

Monthly Information Blocking Portal Submissions Received
(starting April 5, 2021, and as of September 30, 2024)



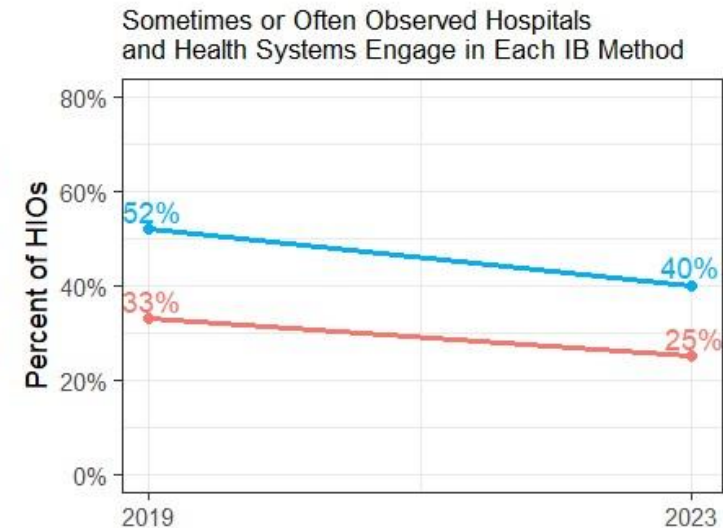
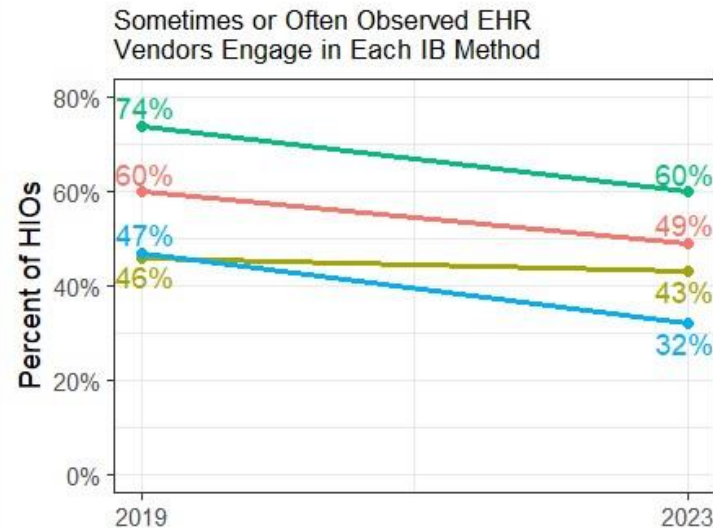
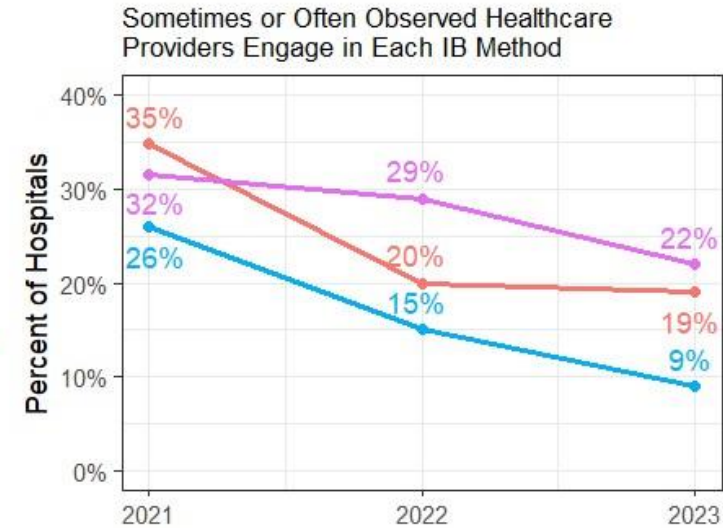
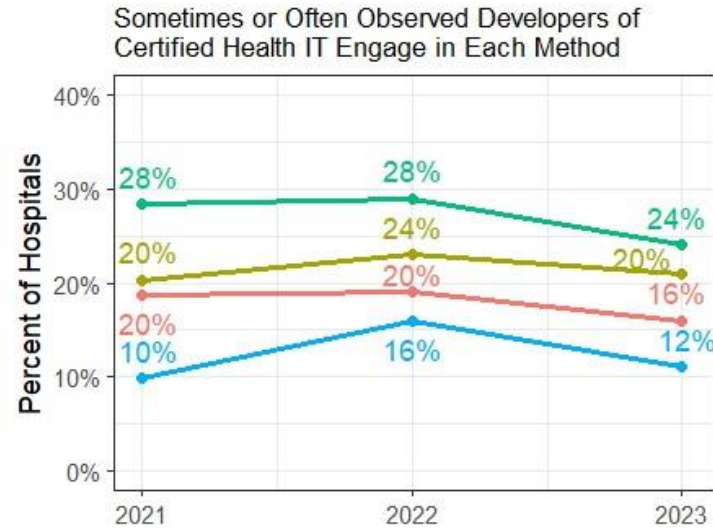
Trends in Prevalence of Potential Information Blocking Observed by Hospitals and Health Information Organizations (HIOs)

- In 2023, 27% of hospitals sometimes or often observed potential information blocking by any actor, down from 42% in 2021
 - Largest decrease for healthcare providers
- Fewer HIOs report widespread or routine information blocking in 2023 than 2019 or 2015
 - Nevertheless, >25% reported potential information blocking by EHR vendors



Trends in Specific Methods of Potential Information Blocking Observed by Hospitals and HIOs

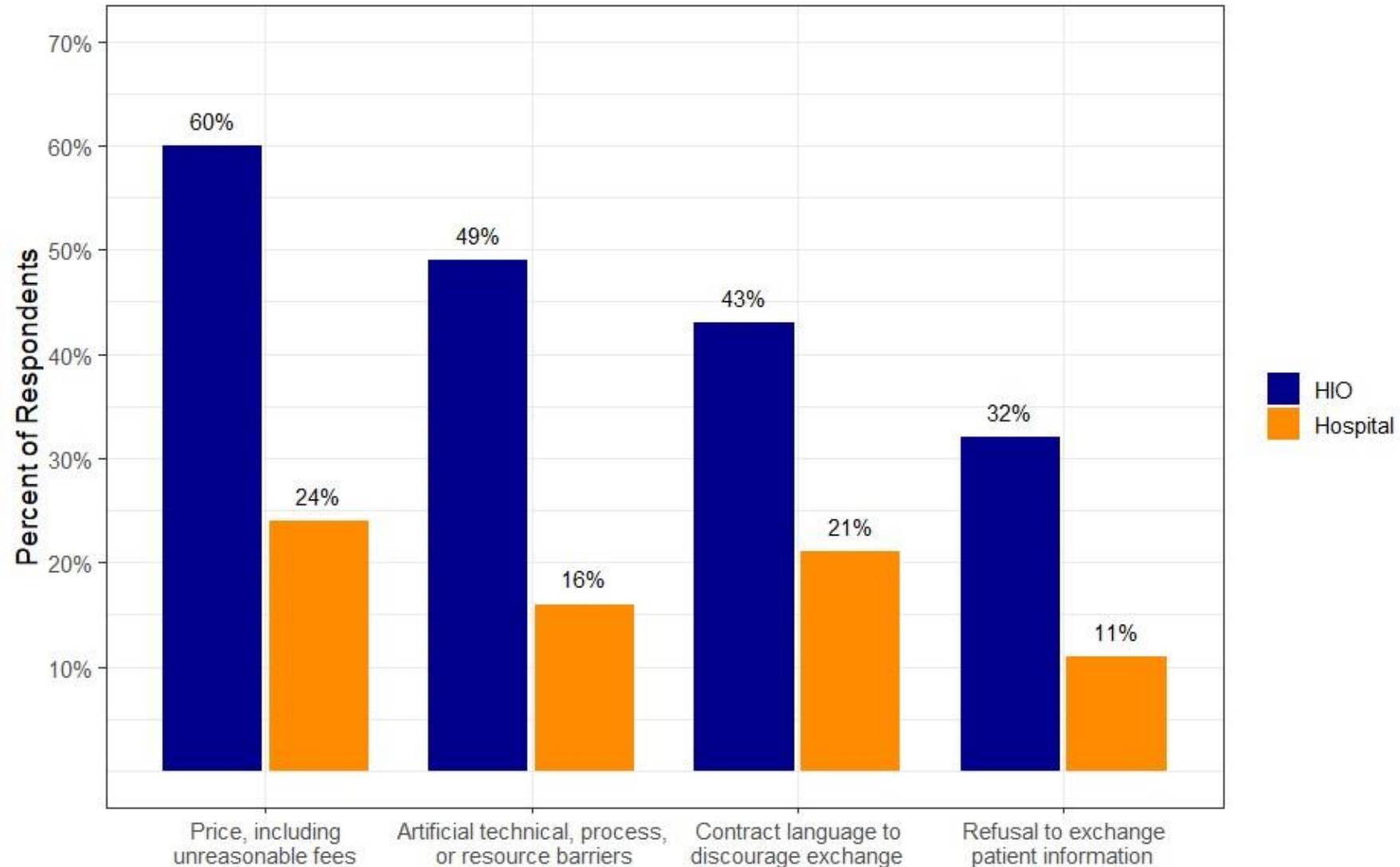
- Decreases in potential information blocking are relatively consistent across specific methods
- More hospitals and HIOs report observing specific methods of potential information than report IB overall



- Artificial barriers
- Contract language
- Price
- Refusal
- Strategic Affiliations

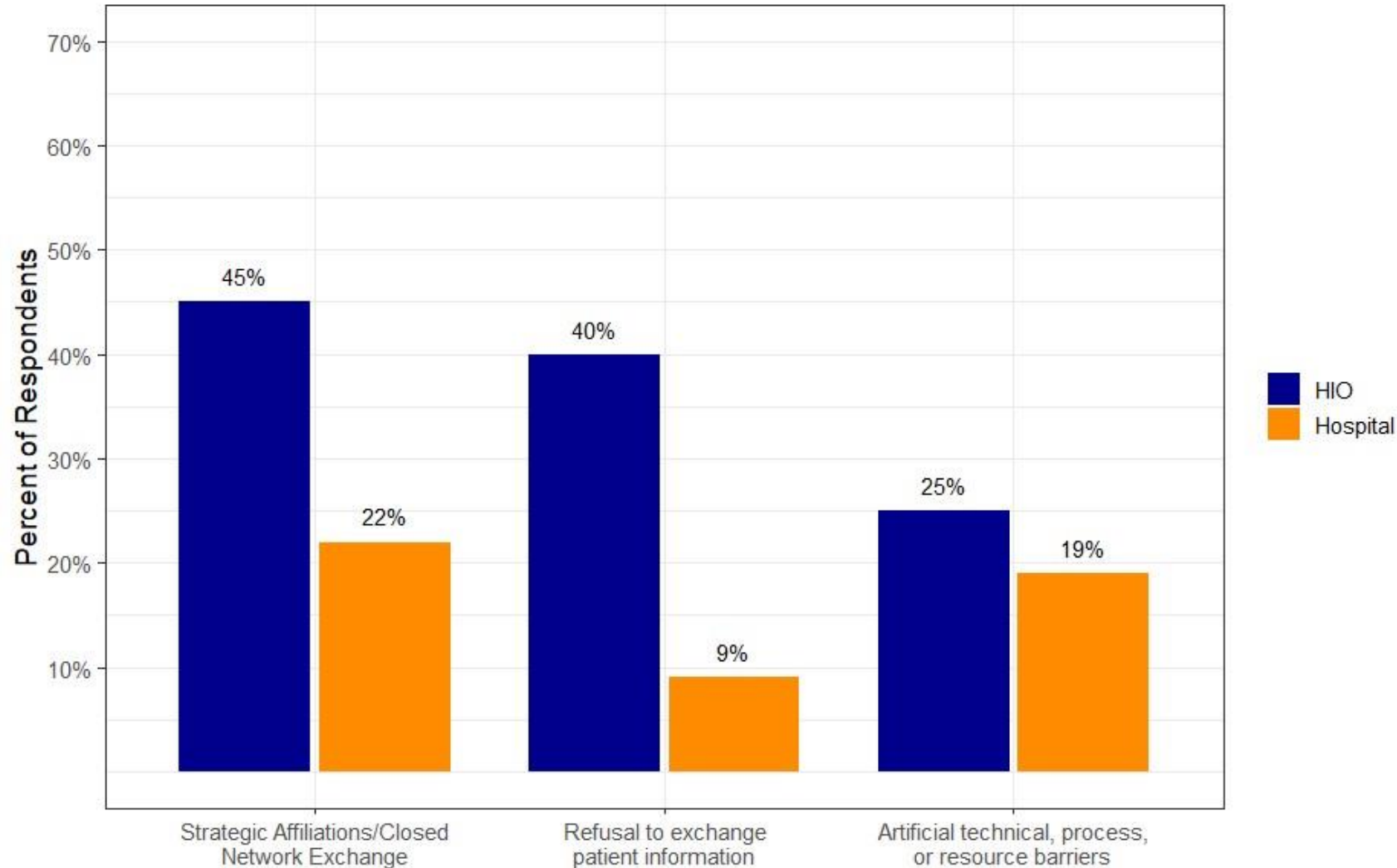
Methods of Perceived Information Blocking by Developers of Certified Health IT

- More HIOs report observing each method of potential information blocking than hospitals
- HIOs and hospitals agree that price is the most common method of potential information blocking



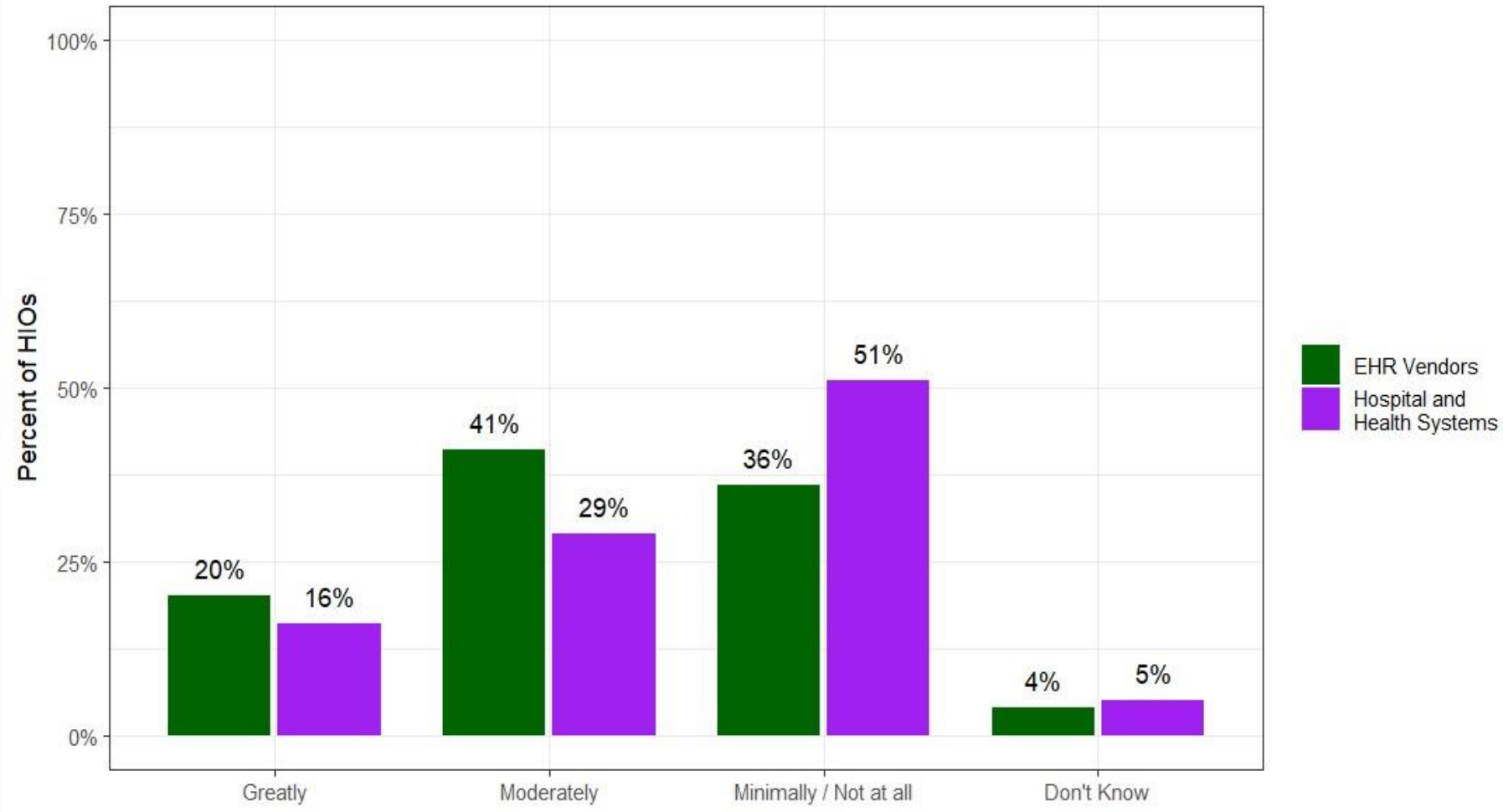
Methods of Perceived Information Blocking by Healthcare Providers

- More HIOs report observing each method of potential information blocking than hospitals
- HIOs and hospital agree that closed network exchange or exchange within strategic affiliation is the most common method of potential information blocking



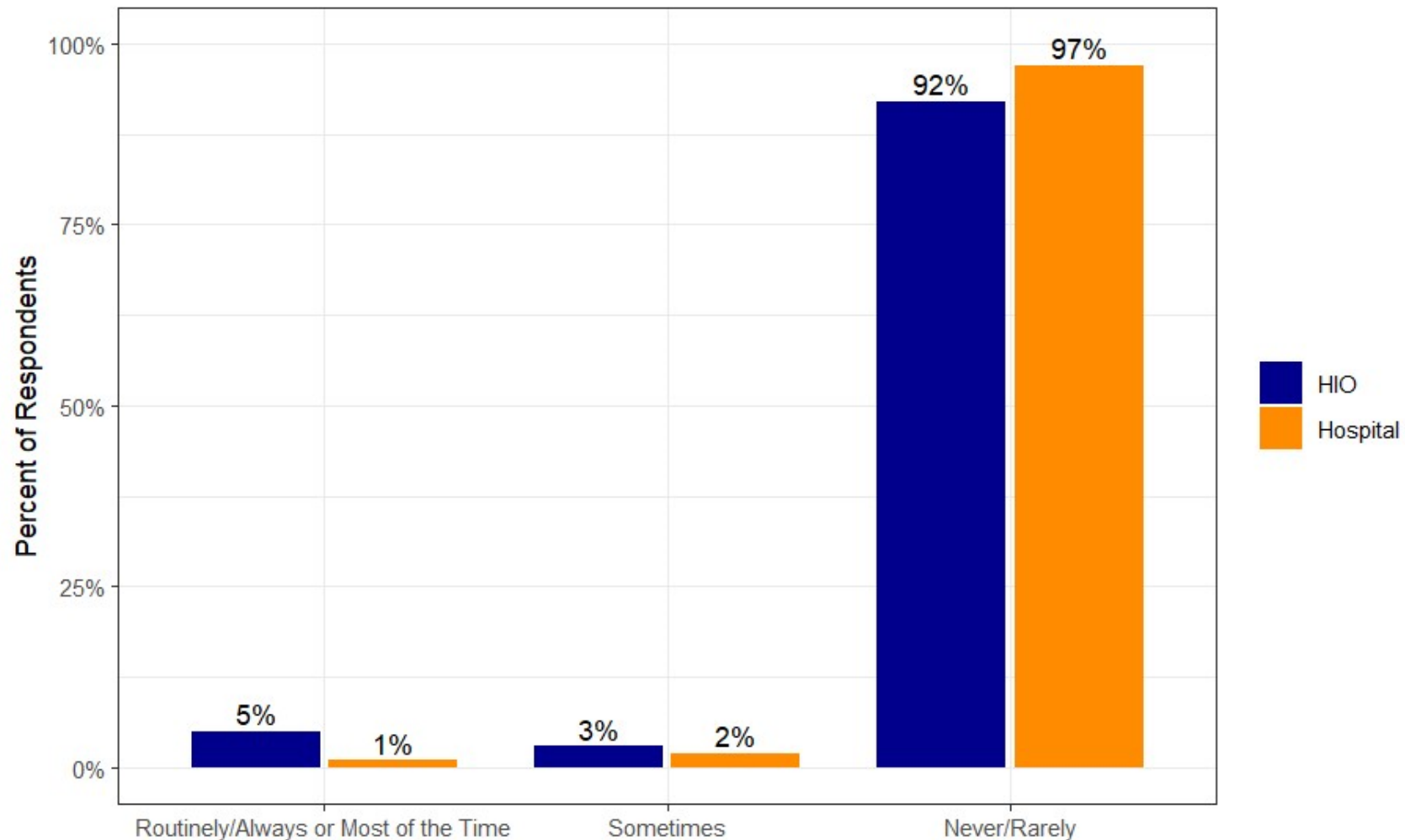
Impact of Potential Information Blocking on Exchange of Patient Information Perceived by HIOs

- 20% of HIOs reported that potential information blocking by EHR Vendors greatly increased difficulty of providing services to participants (61% Greatly or Moderately)
- 16% of HIOs reported that potential information blocking by Hospitals and Health Systems greatly contributed to missing patient information (45% Greatly or Moderately)



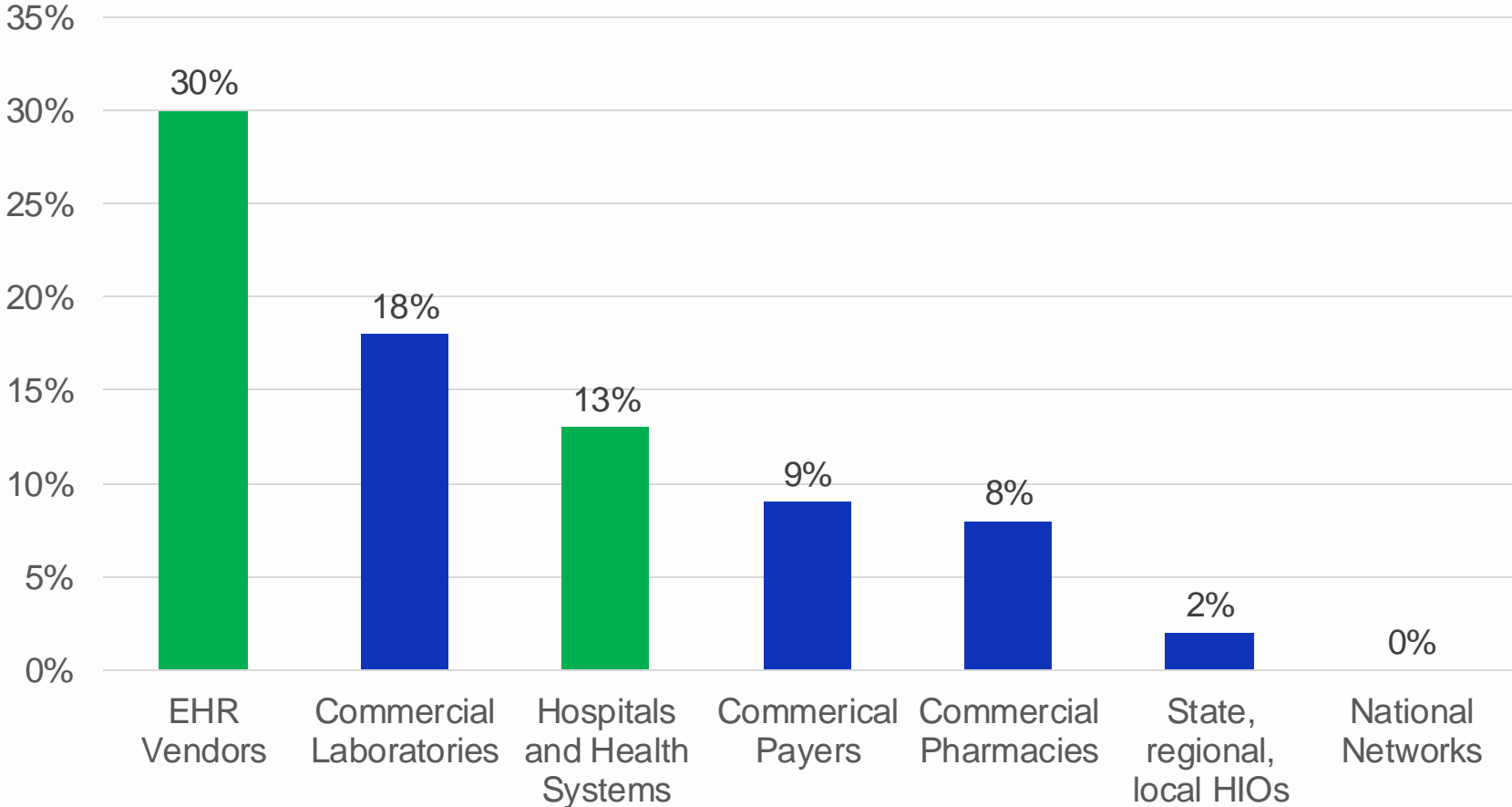
Frequency of Reporting Potential Information Blocking to HHS Among Those That Have Experienced Potential Information Blocking

- Very few HIOs and hospitals said they reported potential information blocking to HHS



Relative Frequency of HIOs Routinely Observing Potential Information Blocking by Varied Actors

- Among other entities, HIOs identified Commercial Laboratories as most commonly engaging in potential information blocking



Discussion / Synthesis

- Both hospitals and HIOs perceived lower rates of potential information blocking in 2023 than in prior years indicating some impact of regulations addressing information blocking.
- Both respondent types reported that substantial potential information blocking persisted in 2023 and negatively impacted the exchange of information.
- HIOs reported more common information blocking by EHR vendors than health systems, while hospitals reported similar rates across varied actors in 2023.
- In the claims of possible information blocking received by ONC, most claimants appear to be patients. Most of the potential actors identified in the claims appear to be health care providers.
 - ▶ The rate of reported claims has been relatively steady, with the three-month moving average mostly falling between 20-35 claims submitted per month.
 - ▶ Very few HIOs and hospitals said they reported possible information blocking to HHS
 - ▶ Very few of the potential information blocking actors reported in the claims appear to be HINs/HIEs

Where to Find More Information

- **ONC Website Resources:** <https://www.healthit.gov/>
- **Information Blocking Resources (including fact sheets, FAQs, blogs, and webinars):** <https://www.healthit.gov/topic/information-blocking>
 - FAQs: <https://www.healthit.gov/faqs>
 - Blogs: <https://www.healthit.gov/buzz-blog/category/information-blocking>
 - Webinars: <https://www.healthit.gov/topic/information-blocking>
 - A report of potential information blocking can be submitted through the Report Information Blocking Portal: <https://healthit.gov/report-info-blocking>
- **ASTP/ONC Data Briefs**
- **Contact ASTP:**
 - ONC Health IT Feedback and Inquiry Portal: <https://www.healthit.gov/feedback>
 - Twitter: @onc_healthIT
 - LinkedIn: <https://www.linkedin.com/company/office-of-the-national-coordinator-for-health-information-technology>
 - ONC Events: <https://www.healthit.gov/newsroom/events>



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