

DARK PATTERNS IN HEALTHCARE

Attendee field guide: audit any patient-facing choice in 10 minutes

CORE TEST | Would a reasonable patient understand the choice, know whether it is optional—and feel free to say no? Review the whole journey: text + placement + process + data flow + staff script.

START WITH ONE CHOICE | Pick a cookie banner, intake flow, optional authorization, HIE choice, portal prompt, research/data-use request, or financial/autopay term. Replay the exact user journey on desktop and mobile—do not review only the presented text or written materials.

1. SCORE THE CHOICE

Mark each row Green, Yellow, or Red. Any Red score warrants remediation or a documented legal and operational rationale.

TEST	GREEN	YELLOW	RED
Clarity	Plain and purpose-specific	Some jargon or cross-reference	Ambiguous, hidden, or misleading
Symmetry	Comparable steps and prominence	Minor friction difference	"Yes" is materially easier
Necessity	Only necessary data or permission	Extra optional fields	Unnecessary data or consent required
Reversibility	Easy withdrawal	Manual follow-up	No practical reversal
Timing	Choice before processing	Sequencing is unclear	Tags or sharing occur first
Evidence	Tested, documented, and owned	Owner known; tests incomplete	No owner or audit trail

2. AUDIT THE JOURNEY

INVENTORY: List every patient-facing choice and its related data flow.

CLASSIFY: Identify the legal act: acknowledgment, consent, authorization, opt-out, or preference.

CAPTURE: Preserve screens, forms, scripts, defaults, clicks, fields, and network calls.

REFUSE: Try "no" on mobile; count steps and fields; confirm the patient can proceed when the choice is optional.

WITHDRAW: Test later withdrawal through a privacy link, authorized agent, or GPC signal, including downstream suppression.

PROVE: Retain versions, approvals, test results, the accountable owner, and the monitoring cadence.

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3. FIX THE MOST COMMON PATTERNS

WORKFLOW	HIGHER-RISK PATTERN	MORE DEFENSIBLE DESIGN
Cookie Choice	"Accept All" dominates; settings are faint; optional tags load first.	Make Accept and Reject equally easy; offer Manage Choices; delay optional tags; preserve a withdrawal link.
Optional Authorization	Bundled with treatment or financial forms; one "I Agree" path.	Separate the form; offer Authorize and Decline; state that declining will not affect care.
HIE Participation	Notice mentions opt-out, but no link exists; accept now and email later.	Present the available participation choice clearly (opt-in/out as appropriate) at the same step; align the interface, staff script, and system behavior.

LEGAL LENS HIPAA | FTC Act + Health Breach Notification Rule | CCPA/CPRA | state consumer-health-data laws | state UDAP laws. Applicability and exemptions are fact-specific. This is a screening tool, not a legal conclusion.

DESIGN THE CHOICE YOU WOULD WANT TO DEFEND
CLEAR | SEPARATE | SYMMETRICAL | HONORED IN PRACTICE | PROVABLE

YOUR NEXT STEP | Prioritize Red findings by legal risk, patient impact, and implementation effort; assign an owner and target date.



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