



Current State of the Federal Health Privacy Laws for Substance Use Disorder and Mental Health Treatment



What You Need to Know

The federal health privacy laws and regulations for substance use disorder (SUD) and mental health (MH) treatment have recently changed and more changes are forthcoming. This resource provides information about the changes and links to resources where you can learn more and find the most up-to-date information.

42 CFR Part 2

- **Regulatory Changes:** The federal privacy regulations for substance use disorder treatment records, 42 CFR Part 2, were amended in July and December 2020. These changes **are currently in effect** but are transitional and will change again when the CARES Act regulatory changes are finalized. [See here for a summary](#) and [here for a webinar outlining the changes.](#)
- **Telehealth Guidance:** In the Spring of 2020, SAMHSA released guidance in response to the COVID-19 pandemic to facilitate the rapid transition to telehealth. **This guidance is in effect** during the public health emergency. [See here for more information.](#)

CARES Act

- **Statutory Changes:** The CARES Act amended 42 USC 290dd-2 (the statute underlying 42 CFR Part 2) in March 2020. These changes are **not currently in effect** and will require new regulations amending 42 CFR Part 2. The regulatory amendments are expected to be finalized sometime in 2022. [See here for more information.](#)

HIPAA

- **Regulatory Changes:** A notice of proposed rulemaking (NPRM) to amend certain provisions of the HIPAA Privacy Rule was issued in December 2020. Public comments were accepted through May 2021. These changes are **not currently in effect** but may be finalized at any time. [See here for more information.](#)
- **Telehealth Guidance:** In the spring of 2020, the Office for Civil Rights (OCR) of the Department of Health and Human Services (HHS) released guidance in response to the COVID-19 pandemic to facilitate the rapid transition to telehealth. This guidance is temporary and will only last through the declared state of emergency. *As of the date of publication, this guidance is still in effect.* [See here for more information.](#)

21st Century CURES Act

- **Final Rule:** A final rule implementing the information blocking provisions of the 21st Century CURES Act was issued in the fall of 2020. **This rule is currently in effect.** [See here for more information.](#)



For More Information

Resources

This resource is one of many that are available within the Center of Excellence for Protected Health Information's resource library which can be found at [coephi.org](https://www.coephi.org).

Request Technical Assistance

You can request brief, individualized technical assistance and join our mailing list for updates, including news about the publication of new resources and training opportunities, [here](#).

<https://www.coephi.org/technical-assistance>



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