

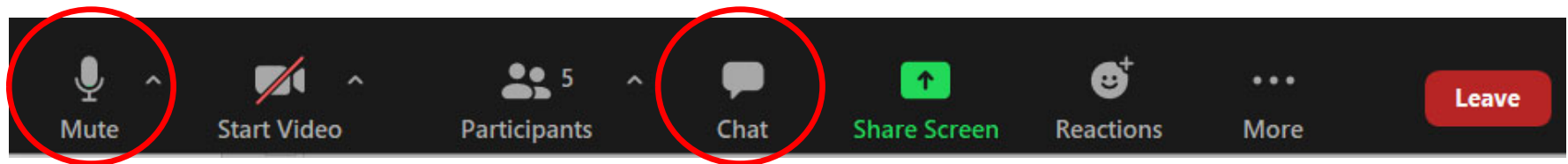
Federal Privacy Protections for Patients Receiving SUD Treatment in Integrated Settings



Thursday, September 25th, 2025 | 2:00 – 3:30 PM EST

FOCUS:PHI
The Center of Excellence for Protected Health Information

Zoom Meeting Logistics



For questions, please utilize the Q&A Function

ASL Interpretation Services

- American Sign Language (ASL) interpretation is being provided for today's event for anyone who needs it.
- You should be able to see our ASL interpreters at the top of your screen during today's session.
- If you are having difficulty seeing our ASL interpreters today, please send us a message in the chat.

Center of Excellence for Protected Health Information (CoE-PHI)

The CoE-PHI develops and disseminates resources, training, and TA for state and municipal agencies, healthcare providers, school administrators and individuals and families to improve understanding and application of health privacy laws and regulations, **including 42 CFR part 2 (part 2), the Health Insurance Portability and Accountability Act (HIPAA), and the Family Educational Rights and Privacy Act (FERPA)**, when providing or receiving treatment for substance use and mental health conditions.

Resources, training, technical assistance, and any other information provided through the CoE-PHI do not constitute legal advice.

Confidentiality is a cornerstone of recovery.

Protecting patient privacy opens doors to communication, understanding, and trust.



Center of Excellence for Protected Health Information (CoE-PHI)



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CoE-PHI Presenters



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Learning Objectives

- Explain when 42 CFR Part 2 (“Part 2”) applies within integrated care settings
- Understand how Part 2 allows sharing of information within integrated settings (and externally) for purposes of care coordination
- Recognize how to apply learning through case study examples representing common scenarios
- Identify how to access resources and technical assistance through the CoE-PHI

Icebreaker

Where are you
joining us from
today?





Overview of 42 CFR Part 2



Why Confidentiality Matters

- Encourages access to treatment
 - See: SAMHSA's National Survey on Drug Use and Health (2024) ([link](#))
- Promotes engagement in treatment and better treatment outcomes
- Protects against stigma, discrimination, criminalization on basis of treatment records

Federal Health Privacy Law Cross-walk

HIPAA

Applies to covered entities (healthcare providers, health plans, healthcare clearinghouses) and BAs

- Protects privacy and security of general health information

Purpose: to protect health data integrity, confidentiality, and accessibility

Permits disclosures without patient consent for treatment, payment, and healthcare operations (TPO)

42 CFR Part 2

Applies to SUD patient records from federally-assisted “Part 2 programs”

- Protects privacy and security of records identifying individual as seeking/receiving SUD treatment

Purpose: to encourage people to enter and remain in SUD treatment by guaranteeing confidentiality

Requires patient consent for treatment, payment, and healthcare operations (TPO), with limited exceptions

42 CFR Part 2 Snapshot

- Federal law and regulations protect the confidentiality of patient records at federally assisted SUD treatment programs
 - 42 USC § 290dd-2 and 42 CFR Part 2
- *Not all* SUD-related patient information is protected by Part 2; only records from “Part 2 programs”
- Part 2 generally requires the patient’s written consent before sharing Part 2 records, including for *treatment, payment, and healthcare operations (TPO)*
- Part 2’s privacy protections generally *follow* the record upon disclosure

Determining When Part 2 Applies

Remember, Part 2 only applies to records from **Part 2 programs: providers that meet the definition of a “program” and are “federally assisted”**

“Program” (42 CFR § 2.11)



“Federally assisted” (42 CFR § 2.12(b))

Determining When Part 2 Applies: “Program”

Remember, Part 2 only applies to records from **Part 2 programs: providers that meet the definition of a “program” and are “federally assisted”**

“Program” (42 CFR § 2.11)

(1) A person (other than a general medical facility) that holds itself out as providing, and provides, substance use disorder diagnosis, treatment, or referral for treatment; or

(2) An identified unit within a general medical facility that holds itself out as providing, and provides, substance use disorder diagnosis, treatment, or referral for treatment; or

(3) Medical personnel or other staff in a general medical facility whose primary function is the provision of substance use disorder diagnosis, treatment, or referral for treatment and who are identified as such providers.

Determining When Part 2 Applies: “Federally Assisted”

Remember, Part 2 only applies to records from **Part 2 programs: providers that meet the definition of a “program” and are “federally assisted”**

“Federally assisted” (42 CFR § 2.12(b))

Conducted by federal agency (except VA); or

Carried out under federal license, certification, registration, or other authorization

- Medicare provider
- Authorization to conduct maintenance treatment or withdrawal management
- DEA registration to dispense controlled substance; or

Supported by federal funds; or

Tax exempt status

42 CFR Part 2 and Integrated Care

What is Integrated Care?

Coordinated approach to an individual's health and healthcare that incorporates physical health, mental health, and substance use disorder treatment.

See HHS AHRQ Lexicon, [link](#)

Determining When Part 2 Applies: Integrated Settings

Remember, Part 2 only applies to records from **Part 2 programs: providers that meet the definition of a “program” and are “federally assisted”**

Is there a “program”? (42 CFR § 2.11)

Look for program type (2) or (3):

(2) An identified unit within a general medical facility that holds itself out as providing, and provides, substance use disorder diagnosis, treatment, or referral for treatment; or

(3) Medical personnel or other staff in a general medical facility whose primary function is the provision of substance use disorder diagnosis, treatment, or referral for treatment and who are identified as such providers.

Is it “federally assisted”? (42 CFR § 2.12(b))

Look for public programs, Medicaid/Medicare, registration to treat OUD with methadone/buprenorphine, or non-profit status

Video: Are you a Part 2 Program? Guidance for SUD Providers Outside a General Medical Facility

Video developed for SUD providers outside a general facility (program type 1) describes when they must follow 42 CFR Part 2.

[VIEW RESOURCE →](#)

Video: Are you a Part 2 Program? Guidance for SUD Providers who Work in Identified SUD Units Within a General Medical Facility

Video developed for SUD treatment providers who work in identified SUD units within a general medical facility (program type 2) describes when they must follow 42 CFR Part 2.

[VIEW RESOURCE →](#)

Video: Are You a Part 2 Program? Guidance for Identified SUD Personnel Within a General Medical Facility

Video developed for SUD personnel within a general medical facility (program type 3) describes when they must follow 42 CFR Part 2.

[VIEW RESOURCE →](#)

CoE-PHI Part 2 Applicability Resources

- [CoE-PHI Video Series: Does Part 2 Apply to me or my Practice?](#)
- [eLearning Module: Does Part 2 Apply to Me or My Practice?](#)
- [Decision Tree: Does Part 2 Apply to Me?](#)
- [Access to CoE-PHI's entire suite of Part 2 Applicability Resources](#)

Decision Tree- I Provide SUD Services in an FQHC: Does Part 2 Apply to Me?

eLearning Module: Does Part 2 Apply to Me or My Practice?



Interactive Case Studies: Determining When Part 2 Applies





Case Study #1

Dr. H prescribes buprenorphine for the treatment of opioid use disorder (OUD) at an FQHC, among other substance use disorder treatment and mental health services.



Poll #1

Is Dr. H a “Part 2 program?”

- A. Yes, because Dr. H is providing SUD treatment services and the FQHC is “federally assisted.”
- B. No, because FQHCs are never covered by Part 2.
- C. It depends / more information is needed.

Case Study #1: Answer

The correct answer is C: It depends/more information is needed.

- We know that Dr. H and the FQHC are “federally assisted,” but we still need to determine whether there is a “program.”
- Does Dr. H work in an identified SUD unit within the FQHC, and does the FQHC hold itself out as providing SUD services?
 - **If yes, the unit is a Part 2 program.**
- Or is Dr. H’s primary function providing SUD services and are they identified as such a provider?
 - **If yes, Dr. H is a Part 2 program.**



Case Study #2

Green Valley is establishing a CCBHC and incorporating SUD treatment services with its longstanding mental health services.

Green Valley hires Mary as an addiction specialist. Mary only treats patients with substance use disorders, although she also treats co-occurring mental health issues. She is identified as the lead SUD provider.



Poll # 2

Does Part 2 apply?

- A. Part 2 applies to all Mary's patients' records, because Mary meets the definition of a "program" and the CCBHC is "federally assisted."
- B. Part 2 only applies to the SUD-related information in Mary's patient records.
- C. Part 2 does not apply, because Mary works in a CCBHC.
- D. It depends / more information is needed.

Case Study #2: Answer

The correct answer is A: Part 2 applies to all Mary's patients' records, because Mary meets the definition of a "program" and she works at the CCBHC, which is "federally assisted."

- Mary is a "program" because her primary function is providing SUD services, and she is identified as such.
- Part 2 protects any information that identifies a patient as seeking or receiving services from Mary (the Part 2 program), including information about a patient's co-occurring mental health diagnosis and treatment.

[See SAMHSA Guidance, "Does Part 2 Apply to Me?" Scenario 2](#)



Case Study #3

Green Valley CCBHC also hires Sherie, an LCSW, to provide counseling services to adolescents.

Sherie has credentials as a Master Addiction Counselor, and provides counseling related to substance use when needed, but many of her patients do not have an SUD diagnosis.



Poll #3

Does Part 2 apply?

- A. Yes, Part 2 applies to the records of Sherie's patients with SUD diagnoses, but not any other patients.
- B. Yes, Part 2 applies to any records related to substance use, but not other records.
- C. No, Part 2 does not apply because Sherie is not a "program."
- D. It depends / more information is needed.

Case Study #3: Answer

The correct answer is C: No, Part 2 does not apply because Sherie is not a “program.” Sherie is not:

- In an identified SUD unit; *or*
 - An identified SUD provider whose primary function is providing SUD services.
-
- *Notice that even though Sherie is providing SUD services and the CCBHC is federally assisted, Part 2 does not apply.*

Review, compare, and contrast...

#2: Part 2 program

Green Valley CCBHC hires Mary as an addiction specialist.

Mary only treats patients with substance use disorders, although she also treats co-occurring mental health issues. She is identified as the lead SUD provider.

#3: Not a Part 2 program

Green Valley CCBHC hires Sherie, an LCSW, to provide counseling services to adolescents. Sherie has credentials as a Master Addiction Counselor, and provides counseling related to substance use when needed, but many of her patients do not have an SUD diagnosis.

A person with curly hair, seen from behind, is pointing upwards with their right hand in a meeting. They are wearing a light-colored sweater over a collared shirt. The background is a blurred office setting with other people. The entire image has a blue color overlay.

Question and Answer



Sharing Part 2 Records in Integrated Settings



Part 2 Programs and Lawful Holders

- **Recap: Integrated settings need to follow Part 2 if there is a unit or provider that meets the definition of a “Part 2 program.”**
 - Part 2 applies to all the patient records within the Part 2 program
- **Integrated settings also need to follow Part 2 when they are “lawful holders” of Part 2 records**
 - A lawful holder is anyone who receives Part 2-protected records pursuant to the patient’s consent (with an accompanying notice of disclosure), or pursuant to one of Part 2’s exceptions.

Part 2 Highlights: Sharing in Integrated Settings

1

Internal communications

2

Medical emergencies

3

Consent

Internal Communications

- Part 2 programs can use and share information within the “program” in connection with providing SUD diagnosis, treatment, or referral for treatment
 - Also known as the internal “need to know” rule
- Part 2 programs can also share records with administrative staff at an entity that has direct administrative control over the program
 - **Example:** Part 2 program in FQHC shares information with FQHC’s billing office to handle reimbursements

Medical Emergency

- Part 2 programs can use and share information with medical personnel to treat a *bona fide* medical emergency
 - **Example:** sharing patient name, date of birth, and current medications with Emergency Medical Services (EMS) responding to patient emergency

Consent to Share in Integrated Settings

- Single consent for all future uses and disclosures for TPO purposes permits program to share with other providers, but records may lose protections downstream
- Narrower consent can tailor disclosures:
 - Specific providers or practices or units
 - Specific types of information (e.g., diagnosis and medication but not progress notes)
 - Maintains downstream protections

**Consent for Uses and Disclosures of
Substance Use Disorder Treatment Information, 42 CFR Part 2**

1. PATIENT NAME: Patient Name

I understand that my substance use disorder treatment records are protected under federal law, including 42 CFR Part 2 and HIPAA, and any applicable state laws. My treatment records can only be used or disclosed with my written consent, except as permitted by 42 CFR Part 2, HIPAA, and applicable state law.

I understand that I have the right not to sign this consent form. If I do not sign, the consequences will be:

Write NONE or describe the applicable consequences.

2. AUTHORIZATION.

a. I authorize the following person or types of people to use and disclose my records:

Write the name(s) or other specific identification of the person(s) or class of persons authorized to receive the requested disclosure.

b. I authorize the following person or types of people to receive my records:

Write the name(s) or other specific identification of the person(s) or class of persons authorized to receive the requested disclosure. For a single consent for all future uses and disclosures for treatment, payment, and health care operations, the recipient may be described as my treating providers, health plans, third-party payers, and people helping to operate this program, or a similar statement. If the recipient is an intermediary, the consent must include the name(s) of the intermediary(ies) and either (A) the name(s) of the intermediary's member participants, or (B) a general designation of a participant or class of participants with a treating provider relationship to the patient (e.g., all my treating providers).

c. RECORDS TO BE USED AND DISCLOSED. I authorize the following information to be used or disclosed:

Describe the information to be used or disclosed in a specific and meaningful fashion. Hover for additional instructions.

New CoE-PHI Resource:

Template Consent for Uses
and Disclosures of Part 2
Records

Access resource [here](#)

New: SUD counseling notes (§ 2.11)

- New (2024) privacy protections for “SUD counseling notes”
 - HIPAA “psychotherapy notes”

Substance use disorder (SUD) counseling notes means notes recorded (in any medium) by a Part 2 program provider who is a SUD or mental health professional documenting or analyzing the contents of conversation during a private SUD counseling session or a group, joint, or family SUD counseling session and that are separated from the rest of the patient's SUD and medical record. *SUD counseling notes* excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

Written Consent and SUD Counseling Notes (§ 2.31)

- Part 2 program must obtain consent for any use or disclosure of SUD counseling notes, except:
 - Certain TPO:
 - Originator of notes can use notes for treatment
 - Part 2 program can use or disclose notes internally for training clinicians
 - Part 2 program can use or disclose notes to defend itself in legal action brought by the patient
 - As required by the Secretary of HHS to investigate Part 2 compliance
 - As permitted by limited exceptions for mandated reports of suspected child abuse/neglect, deceased patients, oversight activities, and court orders

Written Consent and SUD Counseling Notes, (cont.) (§ 2.31)

- Consent permitting use or disclosure of SUD counseling notes **cannot** be combined with consents authorizing the use and disclosure of other types of records
 - **HOWEVER**, it **is permitted** to obtain one consent that authorizes multiple uses and disclosures of SUD counseling notes
- Part 2 program **may not** require the patient to sign a consent for use or disclosure of SUD counseling notes as a condition of the patient receiving treatment or other services.

CoE-PHI Resource: SUD Counseling Notes

**See Related CoE-PHI Resource:*

[Substance Use Disorder Counseling Notes](#)



Substance Use Disorder Counseling Notes: What Behavioral Health Providers and Administrators Need to Know In 2024 About 42 CFR Part 2's New Protections for SUD Counseling Notes

In 2024, HHS amended the substance use disorder (SUD) confidentiality regulations at 42 CFR Part 2 to improve alignment with HIPAA (the Health Insurance Portability and Accountability Act).¹ One of these changes involves new protections for "substance use disorder (SUD) counseling notes," which has a definition similar to the definition for psychotherapy notes within HIPAA.² Part 2 now provides stricter confidentiality protections for these notes than for other parts of a patient record.³

WHAT YOU NEED TO KNOW

SUD counseling notes, defined.

SUD counseling notes are notes by an SUD or mental health professional at a Part 2 program, in which they document or analyze the contents of a conversation from an SUD counseling session.⁴ SUD counseling sessions include private and group sessions, as well as joint or family SUD counseling sessions.⁵ Notes may be in "any medium,"⁶ including paper or electronic notes. In the context of explaining HIPAA's psychotherapy notes, HHS has stated that these notes are the personal notes of a therapist, intended to help the therapist recall the discussion and of little or no use to others not involved in the therapy.⁷

The definition of SUD counseling notes specifically **excludes** medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment provided, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, or progress to date.⁸



Interactive Case Studies: Sharing Part 2 Records in Integrated Settings





Case Study #4

Elena is a patient at a Part 2 program that is part of Blue Skies FQHC. She signs a single consent for all future uses and disclosures for treatment, payment, and healthcare operations (TPO).



Poll #4

Which of the following uses and disclosures are permitted?

- A. Disclosures to other providers within the FQHC for treatment purposes
- B. Disclosures to providers outside the FQHC for treatment purposes
- C. Disclosures to insurance for reimbursement
- D. Disclosures to the FQHC's quality assessment and improvement team (healthcare operations)
- E. All of the above

Case Study #4: Answer

The correct answer is E: All of the above.

Covered entities and business associates that receive Elena's Part 2 records may use and redisclose the records pursuant to HIPAA, *except* for legal proceedings against Elena.



Case Study #5

Green Valley CCBHC offers outpatient SUD and MH counseling, but does not have a unit or provider that meets the definition of a Part 2 program.

Green Valley CCBHC regularly refers patients to inpatient SUD treatment at Red Mountain Residential, a Part 2 program and designated collaborating organization.



Poll #5

Does Green Valley CCBHC need patient consent when referring patients to Red Mountain Residential?

- A. Yes, because Green Valley is disclosing SUD-related information.
- B. Yes, because Red Mountain Residential is a Part 2 program.
- C. No, because Red Mountain Residential is a designated collaborating organization.
- D. No, because Green Valley CCBHC is not a Part 2 program and therefore Part 2 does not apply to its referrals.
- E. It depends/needs more information.

Case Study #5: Answer

The correct answer is D: No, because Green Valley CCBHC is not a Part 2 program and therefore Part 2 does not apply to its referrals.

*But note: Green Valley CCBHC needs patient consent to *receive* information from Red Mountain Residential, including confirmation that a referred patient arrived for treatment.

A person with curly hair, seen from behind, is pointing upwards with their right hand in a meeting. They are wearing a light-colored sweater over a collared shirt. The background is a blurred office setting with other people. The entire image has a blue color overlay.

Question and Answer

2024 Final Rule Snapshot

- **Implements** changes required by CARES Act (2020) to align certain aspects of Part 2 with HIPAA
 - See [HHS factsheet on Final Rule](#)
- **Key dates:**
 - Effective date: April 16, 2024
 - Compliance date: February 16, 2026
- For more information on the 2024 Final Rule see:
 - [December 2024 Archived Webinar: 42 CFR Part 2 Final Rule – What You Need to Know](#)

CoE-PHI Implementation Resources

- [Implementation Fact Sheet](#)
- [SUD Counseling Notes](#)
- [Template Consent for Uses and Disclosures of Part 2 Records](#)
- [Template Patient Notice for Part 2 Programs](#)
- [Notice to Accompany Disclosures of Information](#)

Key Points



Part 2 protects confidentiality of SUD treatment records from “Part 2 programs”



Many integrated settings that provide SUD treatment services do not necessarily meet the definition of a Part 2 program
Look for “identified units” and “identified providers,” plus federal assistance



When Part 2 applies in integrated setting, data can be shared with consent or pursuant to a few exceptions



Upcoming compliance date for
2024 changes to 42 CFR Part 2:

February 16, 2026

A person with curly hair, seen from behind, is pointing with their right hand towards a screen or whiteboard. They are wearing a light-colored sweater over a collared shirt. The background is a blurred office setting with other people. The entire image has a blue color overlay.

Question and Answer

Closing

Focus:PHI

The Center of Excellence for Protected Health Information



Evaluation

Following this webinar, you will receive an email with a link to complete an evaluation.

Your opinions improve our future trainings and resources.

Accessing the CoE-PHI



Technical Assistance

Technical assistance (TA) provided by the Center of Excellence for Protected Health Information (CoE-PHI) aims to support implementation of relevant federal confidentiality and privacy laws for providing mental health and substance use disorder services to clients in practice.

TA is designed to clarify confidentiality regulations and laws, link professionals to helpful resources, and identify strategies to support practical implementation of confidentiality and privacy regulations in practice.

Before requesting Technical Assistance, consider visiting our Resource Library, as answers to many frequently asked questions regarding federal health privacy laws are contained within our resources.

[REQUEST TECHNICAL ASSISTANCE →](#)

Request TA

coephi.org/technical-assistance

Visit Our Resource Library

<https://coephi.org/resource-library/>

**Confidentiality is a cornerstone of recovery.
Protecting patient privacy opens doors to communication,
understanding, and trust.**



Thank you!

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