



Meaningful Conversations About Privacy and Consent to Share Information:

Preparing to Have the Conversation

PRIVACY & CONFIDENTIALITY IMPLEMENTATION CHECKLIST FOR SUBSTANCE USE TREATMENT PROVIDERS

How to Use This Checklist: Organizations that provide substance use treatment services approach privacy and consent to use or disclose (i.e., share) treatment information differently. They may use different types of consent forms, collect information about services patients receive in different ways, and offer alternative options for payment for services when patients don't have or don't want to use their insurance.

Where to Start? Always start by identifying the key person that can answer questions about health information privacy (i.e., Privacy and Compliance Officer, or Center Director/Manager). Meet with that identified person(s), discuss ways you can support in ensuring your patients have information that can help them make informed decisions about providing consent to share their treatment information. You aren't expected to know everything and having one or more people that you, or your patient, can go to for answers will be important in helping your patient make an informed decision.

Every provider should have a base knowledge about organization privacy policy and practice. Use the checklist below to make sure you have all the facts.

What You Need to Know – Consent Policies, Procedures, and Forms

Policy and Procedures: identify policies and procedures followed by your organization when introducing patients to concepts of health information privacy and consent to share their treatment information.

- Policies and procedures could include important information on who provides education to patients regarding consent to share treatment information and when this process occurs.

Consent Forms: identify consent forms provided to patients by your organization that are designed to request the patient's consent to share the patient's treatment or other health information.

- Organizations may use varying titles for their general consent form to share substance use treatment information. Some examples might include:
 - General Consent Form for Sharing Information for Treatment, Payment, and Operations (TPO)
 - General Consent Form to Share Substance Use Disorder (SUD) Treatment Information
- Additionally, organizations use consent forms designed for specific purposes, as required by federal regulations. For example, federal law requires a separate, designated consent form before information contained within counseling notes can be shared. This form might be called:
 - Consent Form to Disclose SUD Counseling Notes

Payment for Services: identify your organizational policies and procedures for payment for services for situations when patients don't have or don't want to use their employer provided insurance.

- Many organizations have sliding scale fee options for patients who do not have health insurance, have insurance that does not cover all services, and/or that choose for the organization to not bill insurance for the services they receive.
- Organizations may also have a list of referral sites for free services if they don't provide services on a sliding fee scale.

NOTE: Some states may have privacy laws that are more protective of health information than federal privacy laws. Ask your organizational contact what else you may need to know about state-specific health information privacy laws and how to apply them.

What You Need to Know – Patients’ Counseling Notes

Determine if the organization uses SUD Counseling Notes and if they are kept separate from the rest of patients’ health information and/or health records.

- **NOT maintained separately:** The patient’s SUD Counseling Notes will **likely** be shared with the recipient identified by the patient if the patient signs a general consent to share their treatment information.
- **Maintained separately:** The patient’s SUD Counseling Notes will **probably not** be shared unless the patient has provided their consent by completing a separate, designated consent form for this purpose, to the organization to share their SUD Counseling Notes.

What You Can Do When You Meet with Your Patient

You play an important role to make sure your patients have the information and support they need to make decisions about consenting to share their treatment information.

We have learned from patients that they want their providers to be transparent and factual about sharing information about their treatment for substance use disorder. Depending on your unique role, below is a list of potential ways Providers can assist patients:

Start a conversation with your patient, about their privacy rights and options related to consenting to share treatment information, including the right to restrict sharing of SUD Counseling Notes.

During this conversation, help your patient think through what info should be shared, with whom, and for how long.

Answer your patient’s questions about consenting to share treatment information or refer them to a person within the treating organization who may be able to answer their questions.

As identified, document counseling and treatment information according to organization policies and procedures

What You Need to Know – Court Ordered Treatment and Child Protective Services Sanctioned Treatment

Some patients may be receiving substance use treatment because they were ordered to do so by a court or other legal body. Patients may also be required by an administrative agency such as Child Protective Services (CPS) to demonstrate that they are in treatment.

The circumstances of each patient's treatment are unique and it is important to take time to understand their unique context, needs, priorities, and questions. The list below describes some steps you can take to support your patients in answering questions about court-ordered or CPS-sanctioned treatment.

What You Can Do – Specific Scenarios

Make sure you understand the requirements, including reporting requirements and implications of non-compliance, of your patient's court ordered treatment or CPS Sanctioned treatment.

Support the patient in understanding what is required by the court or CPS to satisfy the order or requirement to receive treatment.

Support the patient in understanding what health information needs to be shared to show they have complied with their court-ordered or sanctioned treatment.

Make your patient aware of any policies requiring the treating organization(s) to notify the court or CPS of the patient's non-compliance.

What Resources Are Available to Learn More

CoE-PHI provides resources and learning opportunities to support your understanding of federal health information privacy laws and regulations:

- [eLearning Module: Privacy Basics for Frontline Staff](#)
- [Webinar: 42 CFR Part 2 Final Rule – What You Need to Know](#)
- [eLearning Module: Federal Privacy Regulations When Providing SUD and Mental Health Services](#)
- [Patient Voices: Confidentiality Is the Cornerstone of Your Patients' Recovery](#)