



## NOTICE TO ACCOMPANY DISCLOSURE INFORMATION

During the course of their work, organizations that provide substance use disorder (SUD) treatment services may need to share information with other organizations and professionals, for care coordination and other purposes. Likewise, even if their primary focus is not SUD treatment, healthcare providers and other organizations may receive information from a patient's SUD treatment providers. This resource reviews important information that program administrators and providers should know when they share patient information protected by 42 CFR Part 2, the federal regulations governing the confidentiality of SUD treatment records.

### What You Need To Know

Changes to Part 2 took effect in April 2024, with a compliance date of February 16, 2026. The [Final Rule](#) updated 42 CFR Part 2 to align with HIPAA (the Health Insurance Portability and Accountability Act).<sup>1</sup> One of these changes requires new language in the notice that accompanies disclosure of Part 2-protected records with patient's written consent.

### A Closer Look – Notice to Accompany Disclosure and Copy of Consent

Disclosures of Part 2-protected records with a patient's written consent have long been required to be accompanied by a notice that the records are protected by federal law. The 2024 Final Rule changed the content of the notice – not the requirement to provide it. The 2024 Final Rule also introduced a new requirement to include a copy of the consent form, or a clear explanation of the scope of the consent, when making disclosures with patient consent.<sup>2</sup>

The purpose of the notice is to inform providers and organizations receiving

Part 2-protected records (sometimes called “downstream” recipients) about the ongoing restrictions on use and redisclosure of the information. Critically, some Part 2 protections continue to apply as protected records are disclosed and redisclosed. Without a notice, downstream recipients could be unaware that the information shared may maintain its Part 2 protections.

There are two versions of the notice: the standard notice and a short, abbreviated notice.<sup>3</sup> For further guidance about which version to use, see the section below titled *“Tips on Operationalizing the 2024 Changes.”*

### **Standard notice**

This record which has been disclosed to you is protected by Federal confidentiality rules (42 CFR part 2). These rules prohibit you from using or disclosing this record, or testimony that describes the information contained in this record, in any civil, criminal, administrative, or legislative proceedings by any Federal, State, or local authority, against the patient, unless authorized by the consent of the patient, except as provided at 42 CFR 2.12(c)(5) or as authorized by a court in accordance with 42 CFR 2.64 or 2.65. In addition, the Federal rules prohibit you from making any other use or disclosure of this record unless at least one of the following applies:

(i) Further use or disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or as otherwise permitted by 42 CFR part 2.

(ii) You are a covered entity or business associate and have received the record for treatment, payment, or health care operations, or

(iii) You have received the record from a covered entity or business associate as permitted by 45 CFR part 164, subparts A and E.

A general authorization for the release of medical or other information is NOT sufficient to meet the required elements of written consent to further use or redisclose the record (see 42 CFR 2.31).<sup>4</sup>

### **Abbreviated notice**

42 CFR Part 2 prohibits unauthorized use or disclosure of these records.

## Tips on Operationalizing the 2024 Changes

**Add to Your Existing Consent Form Template.** The notice accompanying disclosure can be added to your organization's consent form template, so that sending one form satisfies both requirements in Section 2.32 as well as the consent requirements in Section 2.31.

**Which notice to use – long or short?** Either notice is legally sufficient for Part 2 compliance. Some providers may prefer to use the long version, since it offers more information to the downstream recipients about Part 2's requirements. Other providers may prefer the short version, which is easier to incorporate into consent forms and fits into electronic health records' free-text fields.<sup>5</sup>

**Timing: effective date, compliance date, and implementation.** The 2024 amendments went into effect on April 16, 2024, with a compliance date of February 16, 2026. This means that Part 2 programs, lawful holders, and anyone else subject to the rule may start implementing the changes now, but must have fully done so by February 16, 2026.

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This resource was authored by

[Jacqueline Seitz, JD.](#)

[Sally FriedmanJD](#)

### For More Information

#### Resources

This resource is one of many that are available within the CoE-PHI's resource library, which can be found at [www.coephi.org](http://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 learning opportunities on our website.

<sup>1</sup> Confidentiality of Substance Use Disorder Patient Records, 89 Fed. Reg. 12472 (Feb. 16, 2024), <https://www.federalregister.gov/documents/2024/02/16/2024-02544/confidentiality-of-substance-use-disorder-sud-patient-records>. For more information, watch the CoE-PHI's recorded webinar on the 2024 amendments: <https://coephi.org/resource/archived-webinar-42-cfr-part-2-final-rule-what-you-need-to-know/>.

<sup>2</sup> 42 CFR § 2.32(b).

<sup>3</sup> Id. at § 2.32(a)(1), (a)(2).

<sup>4</sup> Id. at § 2.32(a)(1).

<sup>5</sup> SAMHSA first introduced a short notice in the 2018 Final Rule amending Part 2, explaining that "the abbreviated notice . . . is 80 characters long to fit in standard free-text space within health care electronic systems." Confidentiality of Substance Use Disorder Patient Records, 83 Fed. Reg. 239, 240 (Jan. 3, 2018), <https://www.federalregister.gov/documents/2018/01/03/2017-28400/confidentiality-of-substance-use-disorder-patient-records>.