

# *From Rule to Reality:* Preparing for Part 2's Upcoming Compliance Date

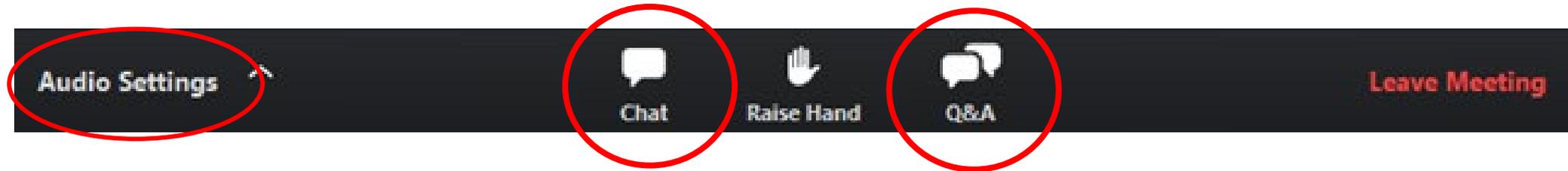
CoE-PHI



January 8, 2026 | 2:30 – 4:00 PM EST

**Focus:PHI**  
The Center of Excellence for Protected Health Information

# Zoom Webinar Logistics



This meeting is being recorded and will be archived on the CoE-PHI site following the webinar.

# 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-based professionals, 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.

CoE-PHI also provides TA regarding the intersection of state law and federal health privacy laws.

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



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



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*The content of this presentation was authored by the CoE-PHI and the views expressed are not necessarily those of SAMHSA or HHS.*

# CoE-PHI Presenters



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# Learning Objectives

- Describe February 2024 Final Rule changes to 42 CFR Part 2 (Part 2)
- Apply 2024 changes to Part 2 to practical scenarios within case studies
- Explore steps that organizations should be taking to implement the new requirements as the February 16, 2026 compliance deadline quickly approaches
- Identify CoE-PHI resources, technical assistance, and learning opportunities to support implementation of Final Rule's requirements



**Welcome!**

# Overview of 2024 Part 2 Final Rule

# 42 CFR Part 2

- **Part 2 protects the confidentiality of patient records at federally assisted SUD treatment programs**
  - These programs are called “Part 2 programs”
    - See [CoE-PHI resources on Part 2 Applicability](#)
- Not all SUD-related patient information is protected by Part 2
- Part 2’s privacy protections generally *follow* the record upon disclosure

# 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](#)
  - [July 2025 Archived Webinar: 42 CFR Part 2 Final Rule - Implementing Changes to SUD Privacy Rules](#)

# What did NOT Change?

- Concept of Part 2-covered program
  - Federally assisted SUD program, defined in § 2.11
- General rule: patients must consent in writing to disclosures of their Part 2-records, unless an **exception** applies
  - No major changes to exceptions
- Concept of “lawful holder”
  - And now defined in § 2.11
- Court order requirements

# Notable 2024 Final Rule Changes

Single consent for TPO

Redislosures of records with TPO consent

Consent: legal proceedings

Consent: SUD counseling notes

Notice with disclosures

Accounting of disclosures

Right to request restriction

Patient notice

Complaints, penalties, and enforcement

Breach notification

KEY:  
Changes related to...

- Consent
- Patient rights
- Breach

# TPO Consent

- Key terminology borrowed from HIPAA: **TPO**
  - Treatment / Payment / Healthcare Operations
- Single consent can authorize all future uses and disclosures for purposes of TPO
- After patient signs a TPO consent...
  - Recipients that are Covered Entities or Business Associates can further disclose those records in accordance with HIPAA regulations
  - **EXCEPT** uses and disclosures for civil, criminal, administrative, and legislative proceedings against the patient

# New and Revised Terms

- Use and disclosure
- “Person” = natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private
- SUD counseling notes
- Intermediary

# Anti-discrimination Protections

- CARES Act (2020) included new **anti-discrimination** protections for individuals with Part 2 records
  - Prohibition on using Part 2 records to discriminate against an individual in making certain decisions regarding that individual's healthcare, employment, housing, access to courts, social services, and benefits
- HHS to implement the CARES Act anti-discrimination protections for Part 2 records in a separate Proposed Rule

A person with curly hair, seen from behind, is pointing upwards with their right hand, holding a blue pen. They are in a meeting room with other people blurred in the background. The entire image has a blue tint.

# Questions Regarding Final Rule Overview

# CoE-PHI Resources to Support Implementation

# Suite of Implementation Resources

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

# **Exploring Preparation and Implementation Activities**



## Poll 1:

**Has your organization or agency taken steps toward updating any of the following forms?** *(Check all that apply)*

- Consent forms (to share patient information)
- Notice of Privacy Practices/Part 2 Patient Notice
- Notice to Accompany Disclosures of Information
- Other



## Poll 2:

**To what extent has your organization taken steps toward updating policies and procedures?**

- not started
- planning in progress
- planning completed
- initial implementation phase
- full implementation phase
- not sure



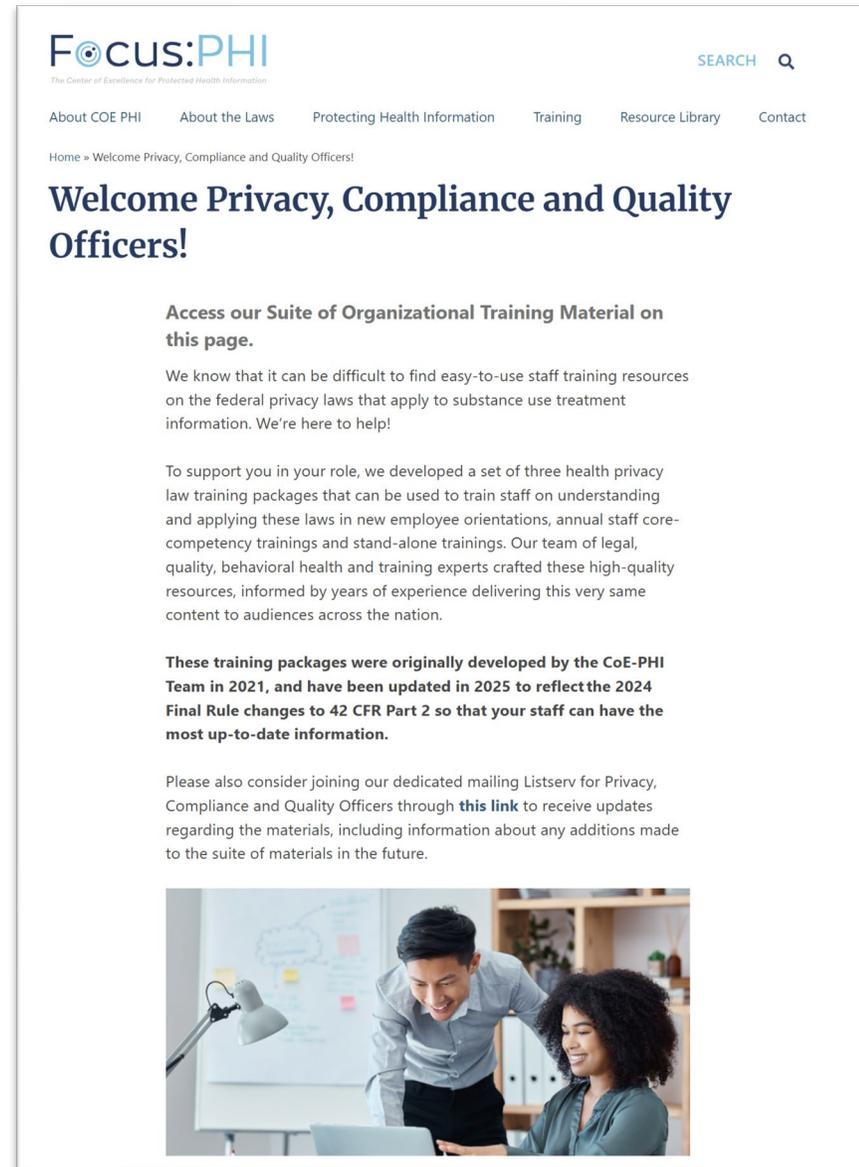
### Poll 3:

**To what extent has your organization taken steps toward updating organizational training material?**

- not started
- planning in progress
- planning completed
- initial implementation phase
- full implementation phase
- not sure

# CoE-PHI Resources for Training

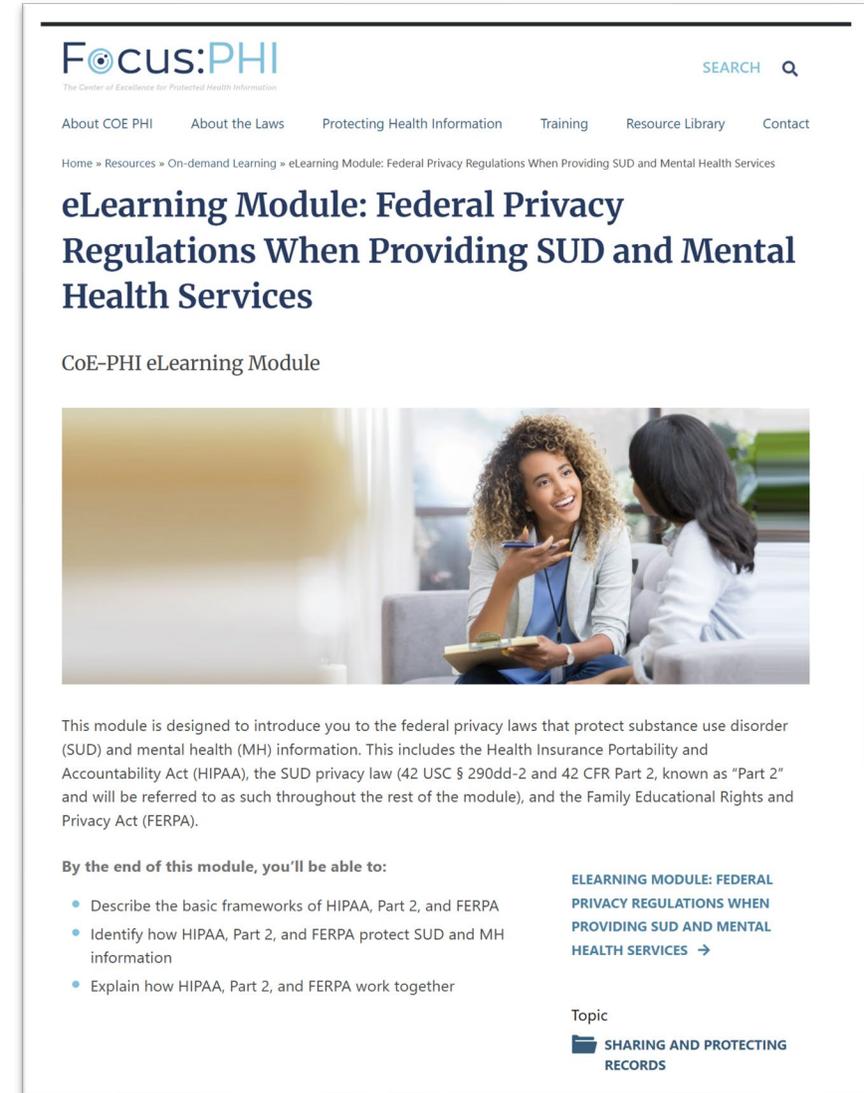
- Three complete health privacy law training packages that can be used to train staff on understanding and applying these laws in:
  - New employee orientations
  - Annual staff core-competency trainings
  - Stand-alone trainings
- Trainings packages are accompanied with training overviews, pre & post tests, and evaluation tools



The screenshot shows the Focus:PHI website. The logo is "Focus:PHI" with the tagline "The Center of Excellence for Protected Health Information". There is a search bar in the top right corner. The navigation menu includes "About COE PHI", "About the Laws", "Protecting Health Information", "Training", "Resource Library", and "Contact". The breadcrumb trail reads "Home » Welcome Privacy, Compliance and Quality Officers!". The main heading is "Welcome Privacy, Compliance and Quality Officers!". Below this, there is a call to action: "Access our Suite of Organizational Training Material on this page." followed by a paragraph: "We know that it can be difficult to find easy-to-use staff training resources on the federal privacy laws that apply to substance use treatment information. We're here to help!". Another paragraph states: "To support you in your role, we developed a set of three health privacy law training packages that can be used to train staff on understanding and applying these laws in new employee orientations, annual staff core-competency trainings and stand-alone trainings. Our team of legal, quality, behavioral health and training experts crafted these high-quality resources, informed by years of experience delivering this very same content to audiences across the nation." A bolded paragraph follows: "These training packages were originally developed by the CoE-PHI Team in 2021, and have been updated in 2025 to reflect the 2024 Final Rule changes to 42 CFR Part 2 so that your staff can have the most up-to-date information." The final paragraph invites users to join a mailing list: "Please also consider joining our dedicated mailing Listserv for Privacy, Compliance and Quality Officers through this link to receive updates regarding the materials, including information about any additions made to the suite of materials in the future." At the bottom of the page, there is a photograph of two people, a man and a woman, looking at a laptop screen in an office setting.

# CoE-PHI Resources for Training

- Suite of 6 e-learning modules
- All modules are compliant with the 2024 changes to the Part 2
- Can be used for organizational staff training
- No cost to download!



The screenshot displays the Focus:PHI website interface. At the top left is the logo "Focus:PHI" with the tagline "The Center of Excellence for Protected Health Information". To the right is a search bar labeled "SEARCH" with a magnifying glass icon. Below the logo is a navigation menu with links: "About COE PHI", "About the Laws", "Protecting Health Information", "Training", "Resource Library", and "Contact". A breadcrumb trail reads "Home » Resources » On-demand Learning » eLearning Module: Federal Privacy Regulations When Providing SUD and Mental Health Services". The main heading is "eLearning Module: Federal Privacy Regulations When Providing SUD and Mental Health Services". Below this is the sub-heading "CoE-PHI eLearning Module". A photograph shows two healthcare professionals, a woman with curly hair and a man, sitting and talking. Below the photo is a paragraph of text: "This module is designed to introduce you to the federal privacy laws that protect substance use disorder (SUD) and mental health (MH) information. This includes the Health Insurance Portability and Accountability Act (HIPAA), the SUD privacy law (42 USC § 290dd-2 and 42 CFR Part 2, known as 'Part 2' and will be referred to as such throughout the rest of the module), and the Family Educational Rights and Privacy Act (FERPA)." Below the text is a section titled "By the end of this module, you'll be able to:" followed by three bullet points: "Describe the basic frameworks of HIPAA, Part 2, and FERPA", "Identify how HIPAA, Part 2, and FERPA protect SUD and MH information", and "Explain how HIPAA, Part 2, and FERPA work together". To the right of the bullet points is a blue button with white text: "ELEARNING MODULE: FEDERAL PRIVACY REGULATIONS WHEN PROVIDING SUD AND MENTAL HEALTH SERVICES →". At the bottom right, there is a "Topic" section with a folder icon and the text "SHARING AND PROTECTING RECORDS".



# Putting Changes into Practice

# **Case study: Applying Learning to Roy's Care Experience**



# Case study

Orange Hills is a behavioral health center that recently began a Medication-Assisted Treatment (MAT) program. Orange Hills is a HIPAA Covered Entity and the MAT program is a Part 2 program. Roy is a new patient at Orange Hills, seeking treatment for a mental health condition and treatment from the MAT program for an opioid use disorder.

Roy signs a single consent for all future uses and disclosures for TPO permitting the MAT program to use and disclose his Part 2 records:

- To his treating providers, health plans, third-party payers, and people helping to operate the program,
- For treatment, payment, and healthcare operations
- Expiring upon the end of treatment

# Case study

Roy signs a single consent for all future uses and disclosures for TPO permitting the MAT program to use and disclose his Part 2 records:

- To his treating providers, health plans, third-party payers, and people helping to operate the program,
- For treatment, payment, and healthcare operations
- Expiring upon the end of treatment

Which of the following disclosures is Orange Hills permitted to make?

- a) Orange Hills can disclose Roy's Part 2 records to other providers in the behavioral health center for treatment
- b) Orange Hills can disclose Roy's records, including his Part 2 records, to a provider at a local hospital for treatment
- c) Orange Hills can disclose Roy's Part 2-protected data to his insurance provider for reimbursement for MAT services Roy receives
- d) Orange Hills can share Roy's records with a health plan for care coordination activities
- e) All the above

### The correct answer is e.

- Roy's TPO consent permits the Orange Hills MAT program, a Part 2 program, to make disclosures of his Part 2 records to a variety of people for a variety of purposes related to TPO (treatment, payment, and healthcare operations).
- Under HIPAA, Orange Hills is permitted to make uses and disclosures of Roy's records for treatment, payment, or healthcare operations with or without Roy's authorization, provided that such uses or disclosures are consistent with other applicable HIPAA requirements and state law.
  - Remember: when following both Part 2 and HIPAA, the *stricter* law applies



## Poll #5

During his treatment at Orange Hills, Roy suffers an injury that requires him to receive in-patient treatment at Red Rocks Hospital System. To assist in treating Roy, Red Rocks Hospital System requests a copy of all Roy's medical records from Orange Hills. Can Orange Hills release both Roy's Part 2 records and his mental health records?

- a) Orange Hills can release Roy's Part 2 records and his mental health records,
- b) Orange Hills can only release Roy's Part 2 records
- c) Orange Hills can only release Roy's mental health records
- d) Orange Hills can release Roy's Part 2 records and his mental health records, but cannot release any SUD counseling notes or psychotherapy notes contained in those records

### The correct answer is d.

- Orange Hills obtained written consent from Roy permitting the MAT program to disclose his Part 2 records for treatment purposes.
- Orange Hills can release Roy's mental health records because Orange Hills is a covered entity under HIPAA.
- Disclosure must not include any SUD counseling notes or psychotherapy notes that are maintained as part of Roy's records.
  - Part 2 (SUD counseling notes) and HIPAA (psychotherapy notes) require separate written consent or authorization from the patient

Because Red Rocks Hospital received a disclosure of Roy's Part 2 records based on a TPO consent and his mental health records based on HIPAA's TPO exception, **which of the following are true with respect to Roy's records?**

- a. Red Rocks Hospital **must** maintain Roy's Part 2 records and MH records separately because Part 2 requires segmentation
- b. Red Rocks Hospital System may combine Roy's Part 2 records and MH records with the rest of his records, because Part 2 does not apply to hospitals
- c. Red Rocks Hospital may choose to maintain Roy's Part 2 records and MH records as part of one record because HIPAA covered entities are not required to segment Part 2 data received based on a TPO consent
- d. Red Rocks Hospital System may choose to segregate Roy's Part 2 records to simplify redisclosure procedures
- e. Both c and d

### The correct answer is e.

- Red Rocks Hospital may choose to maintain Roy's Part 2 records and MH records as part of one electronic health record because HIPAA covered entities are not required to segregate Part 2 records or segment Part 2 data once received from a Part 2 program based on a TPO consent.
- Red Rocks Hospital may choose to segregate Roy's Part 2 records to streamline redisclosure procedures.
- Because different standards apply to redisclosures of Roy's Part 2 records, it may be beneficial to maintain those records separately.



## Poll #7

After Roy is released from Red Rocks Hospital, he is admitted to Yellow Lake Inpatient Physical Rehabilitation Center for ongoing physical therapy. Yellow Lake requests a copy of all of Roy's medical records to aid his treatment. Red Rocks Hospital intends to release Roy's Part 2 records and mental health records received from Orange Hills as part of Roy's complete medical record.



## Poll #7

**Red Rocks Hospital is permitted to make the disclosure to Yellow Lake Rehabilitation Center under Part 2 because:**

- a) Red Rocks Hospital can rely on the initial TPO consent Roy signed at Orange Hills
- b) Red Rocks Hospital may redisclose records in accordance with HIPAA, because it received the records pursuant to Roy's TPO consent and it is a covered entity
- c) Part 2 does not apply to hospitals
- d) Yellow Lake Rehabilitation Center requested a copy of all of Roy's medical records to aid his treatment, which is considered a medical emergency



## Poll #7 Answer

**The correct answer is b.**

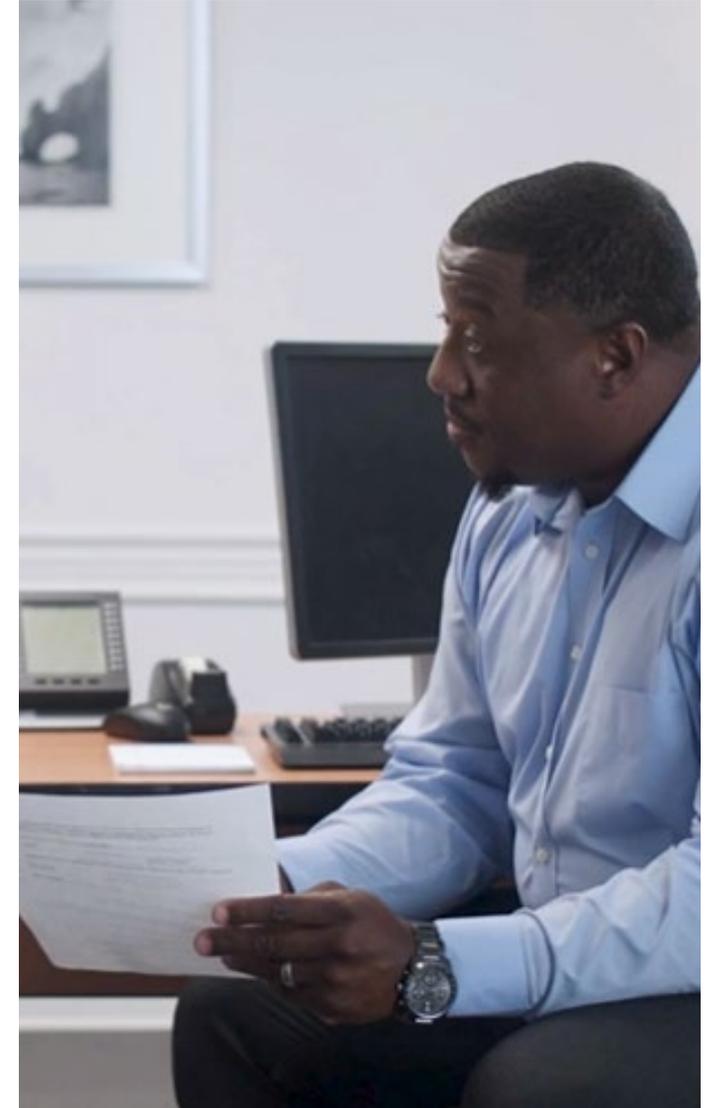
Red Rocks Hospital System received an initial disclosure of records from the Orange Hills MAT program based on a single consent for all future uses and disclosures for TPO and a disclosure of mental health records for treatment purposes from Orange Hills mental health facility. Because Red Rocks Hospital System is a HIPAA covered entity, it may redisclose records in accordance with HIPAA's rules regarding disclosures by covered entities for treatment, payment, and health care operations.\*

*\* Except legal proceedings against the patient*

# **Implementation Steps Taken by Orange Hills**

# Orange Hills Updates to Existing Forms

- Notice of Privacy Practices and Patient Notice
- Consent forms:
  - Single TPO consent for treatment, payment, and healthcare operations
  - Consent for non-TPO uses and disclosures, including for patients who may not wish to sign a single TPO consent
- Notice to accompany disclosures of information



# Orange Hills Updates to Policies and Procedures:

- Policies, procedures and related workflows associated with:
  - Obtaining consent to share Part 2 records and
  - Sharing Part 2 records with patient consent
  - SUD counseling notes
- Breach notification procedure for Part 2 records
- Staff training on updated P&P and related forms, and how to counsel patients about consent forms



A person with curly hair, seen from behind, is pointing a blue pen upwards with their right hand. 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

# Hearing from You: Next Steps

# CoE-PHI Resources to Support Implementation

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

## Resources to Train Staff:

- [Organizational Training Material for Privacy, Compliance and Quality \(PCQ\) Officers](#)
- [E-Learning Module Suite](#)



## Chat-in:

What is your organization's next step in implementing the changes required by the Final Rule?

# Closing



## 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](https://coephi.org/technical-assistance)

**Resource Library**  
[coephi.org/resource-library/](https://coephi.org/resource-library/)

**Confidentiality is a cornerstone of recovery.**  
**Understanding and applying privacy regulations opens doors to communication, understanding, and trust.**



**Thank  
you!**

**F**  **cus:PHI**

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