Title 42 CFR Part 2: Frequently Asked Questions

Title 42 of the Code of Federal Regulations (CFR) Part 2 is a set of regulations designed to protect the privacy of individuals receiving treatment for substance use disorders (SUDs) in federally assisted programs.

What is Part 2 data?

Within Title 42 CFR, Part 2 of this regulation is referred to as "Substance Use Disorder" under the Substance Abuse and Mental Health Services Administration (SAMHSA). Part 2 data is personal identifying information for an individual with, or previously having, a SUD when they receive(ed) treatment from a federally assisted program.

Who do Part 2 regulations apply to?

The Part 2 regulations apply to federally assisted substance abuse programs that hold themselves out as providing treatment for SUDs.

Do SHIN-NY consent forms comply with 42 CFR Part 2?

Yes, Statewide Health Information Network for New York (SHIN-NY) consent forms designed by New York State Department of Health (NYSDOH) and New York eHealth Collaborative (NYeC) meet the SAMHSA requirements for compliance.

HealtheConnections distributes SHIN-NY consent forms to all participating organizations. If you need your organization-specific consent form, please reach out to your RHIO Administrator to request a form.

Can Part 2 data be contributed to a Qualified Entity (QE)?

Yes, all organizations must complete participation requirements including the SHIN-NY Statewide Common Participation Agreement (SCPA), which requires Part 2 programs to notify the Designated Health Information Network (HIN) that their data is subject to additional requirements.

Can Part 2 data be accessed through a QE?

Part 2 data should only be accessed for a patient who has signed affirmative written consent with your organization. As an authorized user of the HIE, you are responsible for understanding and following the applicable laws regarding redisclosure as indicated in the notice on the HealtheConnections HIE Portal log in screen:

Redisclosure Notice: The information accessed through HealtheConnections is confidential and may contain sensitive patient information. By logging in and accessing patient records in the health information exchange, you may be viewing patient records that contain Substance Use Disorder protected under SAMHSA 42 CFR, HIV/AIDS protected under Article 27-F of NY Public Health Law or patient records from facilities licensed or operated by the NYS Office of Mental Health for the NYS Office for People With Developmental Disabilities. A general authorization for the release of these data is NOT sufficient and may only be re-disclosed as permitted by state or federal law.

Can a minor patient's Part 2 data be accessed through a QE?

Yes, once patient consent has been collected. There are two options for collecting consent:

1. A parent/guardian may provide affirmative written consent for the minor patient.

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2. For organizations that have indicated providing Minor Consented Services (MCS), if the parent/guardian has not previously provided a consent value for the minor, or if the parent/guardian has selected "Deny Consent" or "Deny Consent Except in a Medical Emergency," the minor can give their consent by signing a One-Time Authorization Form. This is referred to as the Minor Consented Services Override (MCSO).

Who can access a patient's Part 2 data?

Authorized Users of HealtheConnections HIE with the appropriate role have the ability to access a patient's health information with affirmative written consent from the patient. This is applicable to all health information.

Part 2 data will be accessible when the patient indicates an Emergency Only consent value (applicable to users with Break the Glass access) and Minor Consented Services Override (applicable to configured users). Public Health users that bypass consent will not be allowed to access Part 2 data.

Is access to Part 2 data audited?

Yes, all data that is accessed within HealtheConnections' HIE is audited. Audit reports are provided to all participating organizations each month. Each participating organization is required to complete an audit at least annually.

A patient may also request a report of their data, showing who has accessed their health information. A patient can request an accounting of disclosures by completing the audit log request form found on our website.

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