42 CFR Part 2

Key Takeaways from the Updated SUD Law

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Agenda

• Distinguishing Part 2 from HIPAA
• Appropriate Part 2 Disclosures
• Safeguarding and Operationalizing Part 2 Information
• Enforcement
• SAMHSA Listening Session
• Questions
What is 42 CFR Part 2?

- Put federal regulations in place governing the confidentiality of substance use disorder treatment and prevention records.
- Limits the use and disclosure of records relating to substance use disorders and treatment.
- Encourages people to seek treatment knowing there are privacy protections in place.

Applicability of 42 CFR Part 2 Apply?

- Any program that receives substance use disorder information via a 42 CFR Part 2 compliant release.
- Any program that meets the definition of a Qualified Service Organization per 42 CFR Part 2.
- Any programs that meet the definition of a “federally assisted program” per 42 CFR Part 2.
HIPAA/ 42 CFR Part 2 Comparison

Consent

Prohibitions on Redisclosure

List of Disclosures Requirement

Notice to Patients

QSO/ BA

What has Changed?

Substance Use Disorder

Definitions

Lawful Holder of Part 2 records

Treating Provider Relationship
Appropriate Part 2 Disclosures

- Notice about redisclosure
- Uses without authorization
- Uses with authorization
  → General Consents

Disclosure Updates From Jan. 2018

- Contractors & Subcontractors
- Abbreviated Notice
  → Audit & Evaluation

“42 CFR part 2 prohibits unauthorized disclosure of these records.”

Effective: 2 February 2018
Contract compliance date: 2 February 2020
Special Circumstances

- Court Orders & Law Enforcement
- Receiving Information
- Minors

Safeguarding & Operationalizing Part 2 Information

1. Paper or electronic records
2. Data classification
3. Controls that are in place
4. HIPAA Security Rule safeguards
5. Segregation of data
6. Consent workflow
7. Re-disclosure notice
8. Policies and procedures
9. Awareness and Training
Enforcement

Violations: HIPAA & 42 CFR Part 2

Notification & Reporting

Sanctions: Criminal penalties under DOJ (Title 18)

SAMHSA Listening Session
Questions?

Thank you!