

REQUIRED SPECIAL TRAINING MODULE FOR PRIVACY OFFICERS IN PARTICIPATING ORGANIZATIONS THAT PROVIDE BEHAVIORAL HEALTH AND/OR SUBSTANCE USE DISORDER TREATMENT SERVICES

Attestation of completion by a designated Privacy Officer
is required, and instructions appear on the final slide.



Thank you for viewing this special training module for privacy officers in organizations that offer behavioral health and substance use disorder treatment services. Attestation that this training module has been reviewed is required to ensure that sharing data complies with HIPAA and 42 CFR Part 2 regulations when applicable, and instructions appear in the final slide.

The information in this module will help you answer questions about how federally protected substance use disorder treatment information may be shared and displayed in the HIE if consent is given by the patient at the source of that information. Organizations with programs subject to 42 CFR Part 2 protections have additional responsibilities regarding obtaining patient consent to share information and cooperating with SYNCRONYS to ensure non-consented information does not reach the clinical portal.

42 CFR PART 2 OVERVIEW



- Substance Use Disorder (SUD) records are covered by the Confidentiality of Substance Use Disorder Patient Records 2 USC 290dd-2 and 42 CFR Part 2 (known as “Part 2”) regulations.
- 42 CFR Part 2 protects the privacy and security of records identifying individuals as seeking or receiving SUD treatment **from a “Part 2 program.”** The purpose is to encourage people to enter and remain in SUD treatment by safeguarding confidentiality.
- The regulation requires patient consent for most disclosures, including for treatment, payment, and health care operations (TPO), with limited exceptions.



You can view the rule with this link: <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2>

Substance Use Disorder (SUD) records are covered by the federal regulations we refer to as “42 CFR Part 2.” For this module, we’ll simply refer to them as “Part 2.”

Part 2 protects the privacy and security of records identifying individuals as seeking or receiving SUD treatment **from a “Part 2 program.”** The purpose is to encourage people to enter and remain in SUD treatment by safeguarding confidentiality. **Not all providers of such treatment qualify as a Part 2 program.**

On February 8, 2024, the U.S. Department of Health & Human Services (HHS) through the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Office for Civil Rights (OCR) announced a final rule modifying Part 2.

These changes attempted to align certain aspects of the regulations with the Health Insurance Portability and Accountability Act of 1996 Rules (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (known as HITECH).

This change allowed SYNCRONYS to begin sharing information we receive from

Part 2 organizations if the individual patient has consented to sharing their information for treatment, payment, or operations purposes as defined by HIPAA. This consent is managed by the Part 2 organization.



HOW DO I KNOW WHETHER OUR PROGRAM IS SUBJECT TO 42 CFR PART 2?



Not all providers of treatment are subject to this federal regulation, so how do you know if your program qualifies as a designated 42 CFR Part 2 program?

WHO IS SUBJECT TO 42 CFR PART 2?



A mental health clinic is generally subject to 42 CFR Part 2 if it is a "federally assisted" program that specifically holds itself out as providing, and actually provides, alcohol or drug abuse diagnosis, treatment, or referral. It applies to specialized, identifiable SUD units rather than general medical care, though it can cover specific counselors within a larger facility.

Disclosure of Substance Use Disorder Patient Records: Does Part 2 Apply to Me <https://www.samhsa.gov/sites/default/files/does-part2-apply.pdf>



Ask yourself, do we receive federal funding?

Do we promote our clinic as a provider of alcohol or drug abuse diagnosis, treatment, or referral?

Do I have providers in our clinic that fit that description?

If so, you need to notify SYNCRONYS and work with your team to ensure compliance with Part 2.



**STILL NOT SURE? CONSULT YOUR
LEGAL COUNSEL BEFORE
SENDING DATA!**



If you are still not sure, please consult your compliance officer or legal counsel before sending this type of treatment data to SYNCRONYS. Our goal with this module is to offer you some guidance, but the responsibility remains with your organization, so you'll want to be certain.



IF OUR PROGRAM *IS* SUBJECT TO 42 CFR PART 2, DOES THAT MEAN WE CAN'T SHARE PATIENT INFORMATION?



If your program is subject to 42 CFR Part 2, you can still share this important patient information, which may be critical for the patient's healthcare team to know.

YOU CAN SHARE—WITH PATIENT CONSENT FOR TREATMENT, PAYMENT, OR HEALTHCARE OPERATIONS (TPO) UNDER HIPAA

- Consent from the patient:
 - Must be documented on your consent form
 - Correctly recorded on the patient roster you submit to SYNCRONYS
 - Withdrawn using a **Revocation Roster** immediately if the patient changes their mind



What's required to share this information is to manage patient consent. It should be documented in your practice, correctly reflected on the roster you submit to SYNCRONYS, and withdrawn using a Revocation Roster if the patient changes their mind.

COMPLETING THE SYNCRONYS BH ROSTER

| | | | | |
|----|------------------------------------|---|--|------------------------------------|
| BL | Consent | I = Consent granted O = Consent Denied For non-CFR part 2, place N in Column BQ. | For all 42CFR part 2 | I or O Blank for non-CFR part 2 |
| BM | Enrollment Start | Member enrollment date with payer | No | YYYYMMDD |
| BN | Enrollment End | Member enrollment end date with payer | No | YYYYMMDD |
| BO | Line of Business | Medicaid CHIP Medicare Medicare/Medicaid duals Military Insurance (VHA/TriCare) Commercial Uninsured Cash Pay Falling Colors Other payers (this would include county indigent program) | Yes | Use appropriate code. |
| BP | Consent End Date 42 CFR part 2 ORG | Expiration Date | Optional | No longer required YYYYMMDD |
| BQ | 42 CFR part 2 Patient | Is this patient a 42 CFR part 2 designation? All must reply do NOT leave blank. Y= Yes N= No | Yes, leaving this column blank, block the data | Y or N |

PLEASE REFER
TO THE DATA
DICTIONARY

REQUEST IT AT
HELP@SYNCRONYS.ORG



The SYNCRONYS Behavioral Health patient roster is the gatekeeper for how your data is shared with SYNCRONYS. By understanding how to use two important columns, your practice can control what leaves your organization. A “Data Dictionary” has been shared with the individuals responsible for your clinic’s roster and is your go-to reference for completing the roster correctly. If you need a copy, please reach out to SYNCRONYS, either your Customer Relationship Manager, or our Service Desk and ask for the Behavioral Health Roster Data Dictionary.

The following five slides should help you understand how the flow of patient information is managed in respect to the patient’s wishes.

COMPLETING THE SYNCRONYS BH ROSTER



| | | | | |
|----|-----------------------|--|--|------------------------------------|
| BL | Consent | I = Consent granted O = Consent Denied For non-CFR part 2, place N in Column BQ. | For all 42CFR part 2 | I or O Blank for non-CFR part 2 |
| BQ | 42 CFR part 2 Patient | Is this patient a 42 CFR part 2 designation? All must reply-do NOT leave blank. Y = Yes N = No | Yes, leaving this column blank, block the data | Y or N |

- Column BL (Consent) is dependent on how Column BQ (42 CFR Part 2 Patient) is populated.
- If Column BQ is marked **N**, then Column BL must be left **blank**.
- If Column BQ is marked **Y**, then Column BL must be populated with either **I** or **O**.
- If Column BL is marked **I** (organization has consent on file), a “**break the seal**” indicator is applied in the clinical portal.
- If Column BL is marked **O** (no consent on file or consent denied), the **data is blocked**.



These two columns, BL and BQ, work together to control the flow of data according to whether the patient is a Part 2 patient and whether the patient has given consent to share their data.

- Column BL (Consent) is dependent on how Column BQ (42 CFR Part 2 Patient) is populated.
- If Column BQ is marked **N**, then Column BL must be left **blank**.
- If Column BQ is marked **Y**, then Column BL must be populated with either **I** or **O**.
- If Column BL is marked **I** (organization has consent on file), a “**break the seal**” indicator is applied in the clinical portal.
- If Column BL is marked **O** (no consent on file or consent denied), the **data is blocked**.

If there is any question, please refer to the full Data Dictionary.

PROTECTED DATA AND THE SYNCRONYS CLINICAL PORTAL



The next few slides may help you understand how the SYNCRONYS interprets and has applied the rule to guard the information in the clinical portal for users who look up patient records.

MAJOR CHANGES IN THE NEW 42 CFR PART 2 FINAL RULE – FAST FACTS

- Allows a single consent for all future uses and disclosures for treatment, payment, and health care operations (TPO).
- Allows HIPAA covered entities and business associates that receive records under this consent to redisclose the records in accordance with the HIPAA regulations.¹
- Prohibits combining patient consent for the use and disclosure of records for civil, criminal, administrative, or legislative proceedings with patient consent for any other use or disclosure.
- Requires a separate patient consent for the use and disclosure of SUD counseling notes. (Similar to HIPAA protected psychotherapy notes)
- Requires that each disclosure made with patient consent include a copy of the consent or a clear explanation of the scope of the consent.

¹ However, these records cannot be used in legal proceedings against the patient without specific consent or a court order, which is more stringent than the HIPAA standard.



This slide offers additional details about the regulations that may help you understand the changes we have made to the HIE clinical portal.

Part 2 allows a single consent for all HIPAA TPO uses, now and in the future. It allows HIPAA covered entities and their business associates to receive and redisclose records in accordance with HIPAA regulations.

It protects patients by not allowing such consent to be used as consent for legal uses.

It requires a separate patient consent for SUD counseling notes, like psychotherapy notes)

And requires that each disclosure of the patient's information be accompanied with a clear explanation of the scope of the consent.

These provisions were all considered when SYNCRONYS modified its clinical portal to protect data subject to 42 CFR Part 2.

CONSENT FOR HIPAA TPO AND OPT-IN/OUT, WHAT'S THE DIFFERENCE?

- Consent management applies only to data sharing organizations (DSOs) designated as 42 CFR Part 2.
- If a Part 2 patient provides consent for TPO, their 42 CFR Part 2 data will be available within the HIE upon acknowledgement by the viewer.
- Such consent can be revoked by the patient at the 42 CFR Part 2-designated clinic/agency.

Note: If the patient's Part 2 data was already shared with the HIE, the 42 CFR Part 2 clinic/agency can submit a revocation roster. After the revocation is processed, the patient's Part 2 data will be blocked in the HIE/clinical portal going forward.



Consent management applies only to data sharing organizations (DSOs) designated as 42 CFR Part 2. Again, not every treatment provider is designated as a Part 2 program.

If a Part 2 patient provides consent for their information to be shared for a HIPAA compliant purpose (TPO), their 42 CFR Part 2 data will be available within the clinical portal when a user acknowledges that their access complies with HIPAA. Such consent can be revoked by the patient at the 42 CFR Part 2-designated clinic/agency, and the patient's data from that provider will be blocked. Other information not coming from a Part 2 provider would be unaffected.

CONSENT FOR HIPAA TPO AND OPT-IN/OUT, WHAT'S THE DIFFERENCE? (CONTINUED)

- However, if a patient opts out of the HIE, no information, not even demographics, would be found in our portal.
- Opting-out blocks all patient data from all users of SYNCRONYS, even in the event of a life-threatening emergency.
- Opting-out is initiated by the patient contacting SYNCRONYS.
- The Opt-out / Opt-back-in form is available to patients:

info@syncronys.org | 505-938-9900

<https://www.syncronys.org/resources/#for-patients>



However, if a patient opts out of the HIE entirely, no information, not even demographics, would be found in our portal.

Opting-out blocks all patient data from all users of SYNCRONYS.

To request this, the patient contacts SYNCRONYS directly. The form is available at the SYNCRONYS website, or by calling or emailing SYNCRONYS to request the form.

FUTURE USES AND DISCLOSURES FOR TPO



- Future disclosures made with patient consent must be accompanied by a statement notifying the recipient that redisclosure is prohibited, unless the purpose of the further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by Part 2.
- Limited redisclosures without obtaining the patient's consent are permitted, such as medical emergencies, child abuse reporting, crimes on program premises or against program personnel, and court ordered disclosures when procedures and criteria are met.



The regulations require that when we disclose the covered information to users, we need to show a statement about the scope of the consent. They also allow for limited redisclosure of the information without patient consent under circumstances described in this second bullet.

WHAT CLINICAL PORTAL END-USERS WILL SEE

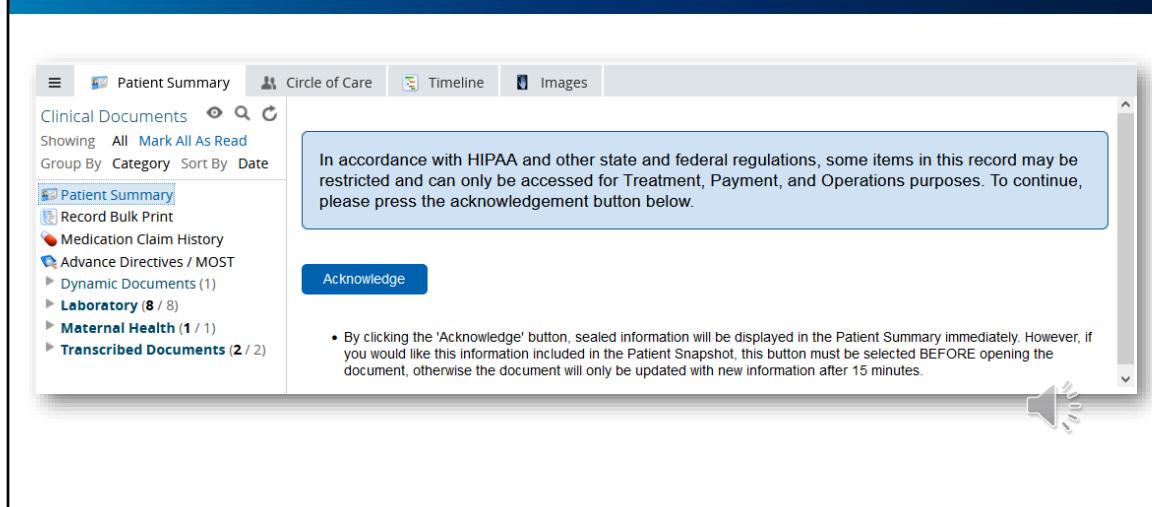


- Authorized clinical portal users may encounter patient records that have specially protected information, such as 42 CFR Part 2 substance use disorder (SUD).
 - Treatment
 - Payment
 - Operations
- In these cases, **the patient has provided consent at the source of that data**, allowing SYNCRONYS to share this information with HIE users for **Treatment, Payment, or Healthcare Operations (TPO)** purposes only.



When protected information is contained in a patient's record in the SYNCRONYS clinical portal, users will see an alert as an indication that the patient has provided consent at the source of that data. An example is shown on the next slide. The patient's consent for part 2 data allows SYNCRONYS to share this information with HIE users for **Treatment, Payment, or Healthcare Operations (TPO)** purposes only.

ACKNOWLEDGING RESPONSIBILITY



The screenshot shows a clinical software interface with a dark blue header. The header contains the title 'ACKNOWLEDGING RESPONSIBILITY' on the left and the Syncronys logo on the right. Below the header is a navigation bar with tabs: 'Patient Summary' (selected), 'Circle of Care', 'Timeline', and 'Images'. The main content area is titled 'Clinical Documents' and shows a list of items: 'Patient Summary' (selected), 'Record Bulk Print', 'Medication Claim History', 'Advance Directives / MOST', 'Dynamic Documents (1)', 'Laboratory (8 / 8)', 'Maternal Health (1 / 1)', and 'Transcribed Documents (2 / 2)'. A message box in the center states: 'In accordance with HIPAA and other state and federal regulations, some items in this record may be restricted and can only be accessed for Treatment, Payment, and Operations purposes. To continue, please press the acknowledgement button below.' Below this message is a blue 'Acknowledge' button. To the right of the message box is a small speaker icon with a volume bar.

By clicking on this acknowledgement, the user is attesting that they have a TPO relationship with the patient whose record they are about to view will reveal. By clicking the 'Acknowledge' button, sealed information will be displayed in the Patient Summary immediately.

SCOPE OF THE CONSENT



Each disclosure made with the patient's written consent **must be accompanied** by a clear explanation of the scope of the consent provided.

How it looks in the HIE Portal:

[42 CFR part 2](#) prohibits unauthorized disclosure of these [records](#). The scope of the patient's consent provided is limited to treatment, payment, and healthcare operations:



The regulations require that when we disclose the covered information to users, we need to show a statement about the scope of the consent. So, when the user acknowledges the statement shown in the previous slide, they will see this banner that restates that use of the information is limited to the purpose of treatment, payment, or healthcare operations. It also has some helpful links to explain the specifics of 42 CFR Part 2 and a definition of Records used in those regulations.

PRINTABLE PATIENT SNAPSHOT IS ALSO LABELED



This also applies to a printed form of the record when using the Patient Snapshot tool to generate a CCD.

Regarding the banner on the Patient Snapshot (CCD):

- By clicking the 'Acknowledge' button, sealed information will be displayed in the Patient Summary immediately. However, if you would like this information included in the Patient Snapshot, this button must be selected BEFORE opening the document, otherwise the document will only be updated with new information after 15 minutes.



Users viewing a patient record in the HIE may want to generate a continuity of care document, known as a patient snapshot. If you would like Part 2 information included in document, make sure you click the acknowledgement button BEFORE generating the patient snapshot. If you click the acknowledgement button after generating the patient snapshot, you would need to wait about 15 minutes to print an updated document that includes the SUD information. In other words, if you intend to print or download a CCD of this record, click the Acknowledge button before generating a patient snapshot so it will also include the restricted items.

FIVE THINGS YOU SHOULD DO SOON



1. Verify whether your organization, program, or any providers are subject to 42 CFR Part 2.
2. If so, you should execute a special addendum with Syncronys called a QSOA.
3. Meet with the person responsible for submitting your patient encounters and/or rosters to ensure they understand how to manage patient consent.
4. Review current consent form to ensure it aligns with the Part 2 requirements.
5. Validate rosters to confirm your process (and EHR) is accurately reporting patient consent choices.



As a privacy officer in an organization that provides the services we've discussed in this module, we recommend that you complete these tasks.

1. Verify whether your organization, program, or any providers are subject to 42 CFR Part 2.
2. If so, you should execute a special addendum, called a QSOA, with Syncronys.
3. Meet with the person responsible for submitting your patient encounters and/or rosters to ensure they understand how to manage patient consent.
4. Review current consent form to ensure it aligns with the Part 2 requirements.
5. Check rosters to validate whether your process and EHR system for generating them accurately reports patient consent choices.

WHAT ELSE SHOULD I BE DOING AS OUR DESIGNATED HIE PRIVACY OFFICER?



- Run a list of your current clinical view users (NMHIC Level 1, 2, or 3 users).
- Direct them to our training library for a brief module on 42 CFR Part 2 information.
- Schedule time with your Customer Relationship Manager if you want to request additional training or to get clarification.
- Notify us if you have any problems or concerns regarding the safeguards in our portal.



Syncronys is requesting help from *all* privacy officers to safeguard the privacy of our patients.

- Run a list of your current clinical view users (NMHIC Level 1, 2, or 3 users).
- Direct them to our training library for a brief module on 42 CFR Part 2 information.
- Schedule time with your Customer Relationship Manager if you want to request additional training or to get clarification.
- Notify us if you have any problems or concerns regarding the new safeguards in our portal.

ADDITIONAL RECOMMENDED PRIVACY OFFICER TRAINING RESOURCES



- Getting Help or Reporting Problems (1:15 min.)
- Privacy Officer 6b Training #1 – Overview (10 mins)
- Privacy Officer 6b Training #3 – Tools for Monitoring Patient Privacy (7 mins)

<https://www.syncronys.org/resources/#training>

Additional 42 CFR Part 2 references are provided in the next three slides and the links are click-able in the PDF handout of this training module.

Remember to send your attestation that you have completed this training. Instructions appear on the last slide.



Our website has a training library of brief modules for you and your staff. We recommend these three for all Privacy Officers.

You will find additional references on the next three slides.

Please remember that we need you to attest that you completed this training, so please advance to the final slide for instructions.

Thank you!

MORE INFORMATION ABOUT 42 CFR PART 2!



PART 2 - CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS
<https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2>

Fact Sheet: SAMHSA 42 CFR Part 2 Revised Rule

<https://www.hhs.gov/hipaa/for-professionals/regulatory-initiatives/fact-sheet-42-cfr-part-2-final-rule/index.html#ftn1>

Code of Federal Regulations: 42 CFR Part 2 - Confidentiality of Substance Use Disorder Patient Records <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2>



The links on the next few slides are provided for your reference and convenience.

MORE INFORMATION ABOUT 42 CFR PART 2! (CONTINUED)



Notice of Proposed Rulemaking: 42 CFR Part2 - Confidentiality of Substance Use Disorder Patient Records

<https://www.federalregister.gov/documents/2024/02/16/2024-02544/confidentiality-of-substance-use-disorder-sud-patient-records>

Fact Sheet: SAMHSA 42 CFR Part 2 Revised Rule

<https://www.hhs.gov/hipaa/for-professionals/regulatory-initiatives/fact-sheet-42-cfr-part-2-final-rule/index.html#ftn1>



MORE INFORMATION ABOUT 42 CFR PART 2! (CONTINUED)



Center of Excellence for Protected Health Information **The Center of Excellence for Protected Health Information (also known as the CoE-PHI) is funded by SAMHSA to assist people and organizations in understanding and applying these federal health privacy laws and regulations.*

<https://www.coephi.org>

FAQs About 42 CFR Part 2 <https://www.asam.org/docs/default-source/advocacy/coe-phi-faqs-about-42-cfr-part-2.pdf>





ATTESTATION OF COMPLETION
IS REQUIRED FOR THIS
TRAINING MODULE.

PLEASE EMAIL MNORBY@SYNCRONYS.ORG
TO CONFIRM YOU HAVE REVIEWED THE
MATERIAL ON BEHALF OF YOUR
ORGANIZATION.



Thank you for your time. We ask that you send an email message to our Syncronys Privacy and Security Director, Mark Norby, to attest that you have completed this module on behalf of your organization.