

FAQ: HHS OCR/SAMHSA Confidentiality of Substance Use Disorder Patient Records Final Rule

Updated: February 2024

The US Department of Health and Human Services (HHS) Office for Civil Rights (OCR) and Substance Abuse and Mental Health Services Administration (SAMHSA) [published](#) their joint Confidentiality of Substance Use Disorder (SUD) Records final rule aligning 42 CFR Part 2 with the Health Insurance Portability and Accountability Act (HIPAA). AHIMA previously provided [comment](#) on the proposed rule in 2023 supporting many proposals and urging modification to others. The final rule official published in the Federal Register on February 16, 2024 with an **effective date of April 16, 2024**.

Key Provisions of the Final Rule Include:

- ✓ Allowing a single consent for all future uses and disclosures of a Part 2 record for treatment, payment, and health care operations (TPO);
- ✓ Allowing HIPAA covered entities and business associates to redisclose Part 2 records received under the above consent in accordance with HIPAA regulations;
- Requiring disclosures of Part 2 records with patient consent to include a copy of the consent or an explanation of the scope of that consent;
- ✓ Aligning Part 2 Patient Notice requirements with HIPAA Notice of Privacy Practices requirements;
 - OCR and SAMHSA note that this change only applies to patient notice requirements. Requirements related to updating the Notice of Privacy Practices will come in future rulemaking.
- Creating an SUD Counseling Note that is to be governed by the same requirements as a psychotherapy note for purposes of treatment, payment, and operations (TPO) under HIPAA;
- Permitting the disclosure of deidentified Part 2 records to public health authorities without prior patient consent; and
- Aligning Part 2 record breach requirements and penalties with HIPAA Breach Notification Rule requirements and enforcement authorities.

Please contact the AHIMA Policy and Government Affairs team at advocacy@ahima.org with any questions you may have about this final rule or its implications.