Sharing Substance Use Disorder Information
A GUIDE FOR WASHINGTON STATE

Launch Presentation
May 2019
Agenda

- Integrated health care
- Issues with implementing 42 CFR Part 2
- Consent management workgroup
- Guidance and toolkit
- Next steps
Welcome

“It is more important than ever for health care providers to think about and address ‘whole person’ health.”

- DR. CHARISSA FOTINOS
Understanding the need for consent care coordination
The need for consent care coordination

<table>
<thead>
<tr>
<th>Type of provider</th>
<th>Applicable law*</th>
<th>Authorization requirements for release of records</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical health provider</td>
<td>HIPAA</td>
<td>Consent not required for TPO**</td>
</tr>
<tr>
<td>SUD providers</td>
<td>42 CFR Part 2</td>
<td>Consent required</td>
</tr>
</tbody>
</table>

Person with SUD Seeks treatment from

42 CFR Part 2 (also known as Confidentiality of Alcohol and Drug Abuse Patient Records) – A federal statute that governs confidentiality for people seeking treatment for substance use disorders from federally assisted programs. This law generally requires a federally assisted substance use program to have a patient’s consent before releasing information to others. It encourages people to seek treatment and reassures patient privacy. Additional information found here: https://www.samhsa.gov/health-information-technology/laws-regulations-guidelines

* RCW 70.02 – Medical Records – Health Information Access and Disclosure is presumed to still apply. RCW 70.02

**Treatment, Payment, and Health Care Operations
History of 42 CFR Part 2
Recent history

1970
P R E S E N T

1972
Underlying legislation passed

1975
Part 2 finalized

1987
Part 2 updated

2017
Part 2 updated

2018
Part 2 updated

2019
Notice of proposed rulemaking expected march 2019

Washington State Health Care Authority
Issues with implementing 42 CFR Part 2

**Current Situation:**
- 42 CFR Part 2 confusing to providers
- Over exclusion of SUD information by providers
- No consistent mechanism for sharing
- Burdensome requirements dissuading providers from asking for consent

**Gaps**

**People:**
- Inconsistent understanding of 42 CFR Part 2
- Adverse outcomes due to lack of sharing information for patient care (lack of full integration)

**Policy & Process:**
- Lack of statewide guidance regarding 42 CFR Part 2
- Need for a consent form allowing for HIE designation

**Technology:**
- Need for HIE to leverage recent SAMSHA updates
- Partner agencies/providers utilize numerous systems
Guidance development path

**SUD Consent Management Workgroup Convened**
Cross-departmental workgroup convened in May 2018 in response to provider requests for guidance
Represented state agencies with interest in consent management

**Key Decision Points Addressed**
- Flexibility of consent form
- Incorporation of recent SAMSHA updates
- Focus on clinical care coordination

**Guidance Document Drafted**
Workgroup reviewed initial draft sections

**Additional Stakeholders Review**
Document reviewed by diverse organizations representing:
- Behavioral health providers and physical health providers
- Patients/clients
- State agencies providing services

**Guidance Finalized**
Distribute to providers across WA
Communicate via numerous channels
Provide overview videos
Follow up with Q&A sessions
How the toolkit fills in the gaps

**People:**
- Inconsistent understanding of 42 CFR Part 2
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**Resources in the guidance document**
- Legal guidance
- Real world scenarios
- Provider consent script
- Patient informational brochure
- Part 2 compliant consent form that accommodates HIE
- Overview videos offering introduction to Guidance document
Guidance document contents
Who is subject to 42 CFR Part 2

Video Link
Here is an example of decision tree in used in the guidance document.

Start

Am I federally assisted?

YES

Am I a provider in a general medical facility?

YES

Does the facility have a SUD treatment program?

YES

Does the facility hold itself out as providing SUD treatment services and provides those services?

YES

Am I a provider that holds itself out as providing SUD treatment services and provides those services?

YES

Are personnel within the facility provide SUD treatment?

YES

Is SUD treatment the provider’s primary purpose?

YES

Subject to 42 CFR Part 2

Subject to 42 CFR Part 2

Subject to 42 CFR Part 2

Subject to 42 CFR Part 2

Subject to 42 CFR Part 2

Not subject to 42 CFR Part 2

Not subject to 42 CFR Part 2

Not subject to 42 CFR Part 2

Not subject to 42 CFR Part 2
Scenarios

Video Link
A person receiving substance use disorder treatment may have many people involved in their care. For example, the person may see physical health providers, receive outpatient services from a substance use disorder provider, and receive other community based services. The person benefits when all the people involved in their care can communicate with each other.
Scenarios

Scenario information:
Key take away
Summarized interpretation of the scenario
Description of why the information is being exchanged
Suggested things to keep in mind
42 CFR Part 2 Requirements
HIPAA & 70.02 requirements
Consent

Video Link
## Nine elements of the consent form

<table>
<thead>
<tr>
<th>Administrative information</th>
<th>Who can exchange information</th>
<th>What information is exchanged and why</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name of the patient</td>
<td>6. Who may make the disclosure</td>
<td>8. What information may be disclosed</td>
</tr>
<tr>
<td>2. An explanation of the right to revoke consent</td>
<td>7. Who can receive the information</td>
<td>9. Why the information is being disclosed</td>
</tr>
<tr>
<td>3. When the consent expires</td>
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<tr>
<td>4. The patient’s signature</td>
<td></td>
<td></td>
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<tr>
<td>5. The date the consent is signed</td>
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</table>
# Consent form sections

## Section 1: Self-explanatory administrative information

### PERSONAL INFORMATION

Note: Patient identification label may be affixed here in lieu of completing this section.

<table>
<thead>
<tr>
<th>First Name</th>
<th>Middle Initial</th>
<th>Last Name</th>
<th>Date of Birth (MM/DD/YYYY)</th>
<th>Zip Code</th>
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### SECTION 1: What information am I agreeing to share?

I give my permission to share the following information (please select one or both):

- **Option 1:** ☐ Substance Use Disorder (SUD) treatment records maintained by my providers (including, but not limited to, medications and dosages, lab test results, clinic visits, diagnostic information, discharge summary etc.)
- **Option 2:** ☐ Claims data related to Substance Use Disorder (SUD) treatment, which include only a summary of my diagnoses and services received
- **Option 3:** ☐ “I select both Option 1 and Option 2”
Section 2: Who can share information

A person can use a single form to allow all treating providers to share information.

<table>
<thead>
<tr>
<th>Name of the individual(s) and/or healthcare organization(s) with whom I have (or had) a treating provider relationship:</th>
<th>Enter their contact information:</th>
</tr>
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<tbody>
<tr>
<td>Phone number:</td>
<td></td>
</tr>
<tr>
<td>City, State and Zip Code:</td>
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or,

| Option 3: | “I select both Option 1 and Option 2” |
**Consent form sections**

### Section 3: Who do I want to share my information with?

*This section identifies who can receive your information.*

Please select one of the following options:

**Option 1:** ☐ Providers may choose to send and receive patient treatment information through a secure electronic system called a Health Information Exchange (HIE). Doctors, mental health providers, nurses, pharmacists, and other health care providers are only allowed to receive and share your information from an HIE if they have the right permissions to do so.

“I understand that my past or current treating providers may currently use, or plan to use, the following HIE to manage my information: __________________. I agree to share my information through the HIE with all individual(s) or organization(s) that I have a past, current or future treating provider relationship with.”

or,

**Option 2:** ☐ “I give my permission to share my substance use disorder treatment information with these specific individual(s) or organization(s).”

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or,

**Option 3:** ☐ “I select both Option 1 and Option 2”
Provider script

When introducing patients to the concept of consent management and its purpose, the following three discussion components are recommended:

- Providing a patient consent conference in a non-judgmental environment.
- Setting the clear intention for improved patient care experience.
- Supporting the patient in self-directed decision making around consent and being in control of that decision.
Informational brochure

Benefits of the brochure:
Clear language explaining the benefits and describing patient protections
Questions?
For more information visit

www.hca.wa.gov