

PATIENT PRIVACY: SUBSTANCE USE DISORDER

BACKGROUND

Despite increased national attention on substance use disorder (SUD) and opioid misuse, substance use and treatment remain highly stigmatized. Although patient privacy is a broad healthcare priority, additional safeguards are necessary to protect patients who seek SUD treatment from discrimination, legal consequences, and other risks. Privacy laws protect patients from certain disclosures about their treatment, personal identifying information, and related information regarding their care .

FEDERAL LAW: 42 CFR PART 2

The federal Department of Health and Human Services (HHS) introduced [42 CFR Part 2](#) in 2017 to regulate substance abuse treatment programs and enforce the confidentiality of SUD patient records. 42 CFR Part 2 [privacy restrictions](#) apply to most substance use treatment programs and providers that are federally assisted and/or hold a federal DEA license. Programs that do not receive federal assistance are not required to follow 42 CFR Part 2, unless a state licensing or certification agency requires compliance. Patient information may only be disclosed to specific entities, and must be limited to the information necessary to carry out the purpose of the disclosure.

In 2017, the Substance Abuse and Mental Health Services Administration SAMHSA issued a [final rule](#) describing updates to 42 CFR Part 2, and a separate [Supplemental Notice of Proposed Rulemaking \(SNPRM\)](#) to provide further guidance. In response to the SNPRM, Attorneys General from 32 states and the District of Columbia recommended that HHS revise 42 CFR Part 2 to permit substance abuse treatment programs to submit prescription and dispensing information to state PDMPs, in order to allow for comprehensive drug treatment.

PENNSYLVANIA LAW: 4 PA CODE § 255.5

[4 Pa. Code § 255.5](#) generally requires client consent before disclosure of SUD treatment-related information to entities such as employers, government officials, and health insurance plans, except in limited situations wherein releasing client treatment information to a judge or law enforcement official is necessary to determine compliance with a condition of a sentence, parole and/or probation.

IMPACT ON PDMPs

PDMPs are currently unable to receive reports with patient-identifying information from providers and programs providing treatment for SUD, creating the potential for duplicate prescriptions. This gap in data is particularly challenging for methadone administration. PDMPs do not contain data about patients receiving methadone without a prescription, such as in hospitals or at treatment programs, which may be problematic for providers treating those patients who use PDMP data to determine whether to prescribe methadone. This issue is controversial for its potential implications on drug interactions and patient privacy.