



## Rules Governing the Confidentiality of Substance Use Disorder Records Significantly Revised

For the first time since 1987, the federal government has made major updates to the regulations (42 CFR Part 2) that govern the confidentiality of substance use disorder records. The revisions to 42 CFR Part 2 are significant and, among other things, relax the consent requirements for disclosure of substance abuse disorder records in certain circumstances. In addition, the revised regulations allow for greater access to substance abuse disorder information for research purposes.

The new regulations also come with some additional requirements. For example, several of the requirements of 42 CFR Part 2 will now extend to individuals or entities who receive substance abuse disorder information from substance abuse disorder providers OR “lawful holders” of substance abuse disorder records (*i.e.*, individuals or entities who receive substance abuse disorder information pursuant to a patient consent, which may include a patient’s treating provider, a hospital emergency room, an insurance company, an individual or entity performing an audit or evaluation), so long as notification of such requirements accompanies the information. The new regulations also require additional security measures and may require changes to Privacy Notices.

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These changes were scheduled to become effective on February 17, 2017, but as you may be aware, President Trump’s Chief of Staff issued a memorandum dated January 20, 2017, to regulatory agencies which directed them to take certain actions which may delay the implementation of revised 42 CFR Part 2. The memorandum states that the effective date of new regulations which are not in effect, subject to certain exceptions, should be delayed for 60 days. We will advise further when definitive information is available.

For additional information on the new consent requirements and corresponding new security and confidentiality obligations, please contact partner [Stacey Gulick](#) at 516.393.2264.

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